

1     Brownsville Police Department went by my apartment; and  
2     when I answered the door, he told me that I was under  
3     arrest for murder. A police officer then took me to  
4     jail; and later on, Detective Pineda took me upstairs  
5     where Detective Flores was waiting.

6                     "Detective Flores proceeded to read me my  
7     rights, which I have read, initialed, signed, dated and  
8     timed them. I would now like to give the following  
9     statement to Detective Flores on a voluntarily basis. I  
10    have not been promised anything in return for what I am  
11    about to tell him.

12                    "Detective Flores stopped by my house on  
13    9/8/98; and he told my wife that he needed to speak with  
14    me. My wife Angie told me later on that day when I saw  
15    her that he, Detective Flores, had been looking for me.

16                    "Angie told me that Detective Flores had  
17    searched the house and had left his business card with  
18    her in order for me to speak with him later. I came into  
19    the station to speak with Detective Flores that evening,  
20    but he had already left for the day.

21                    "On 9/9/98 I came in to the Brownsville  
22    Police Department about 3 p.m. and I had met  
23    Detective Flores at his office. Detective Flores read me  
24    my rights, which I had also signed; and then he asked me  
25    some questions about my whereabouts of the past weekend,

1 which was Friday, 9/4/98, through Sunday, 9/6/98.

2 "I began to tell Detective Flores who I  
3 was with those days, but when -- but then I stopped and I  
4 did not tell him anything else. I read in my rights that  
5 I could stop the interview at any time; and I did.

6 "I then left that day; and I did not see  
7 or speak with him again until today when he went to my --  
8 when he went to my apartment. Today I would like to tell  
9 Detective Flores what I did that weekend that he asked me  
10 questions about.

11 "On Saturday, 9/5/98, around 12 in the  
12 afternoon, Pedro Gracia stopped by my apartment and  
13 picked me up in his Ford truck that he owns. Pedro had  
14 asked me about an old lady that I know by the name of  
15 Ms. Harrison that has a lot of money. I told Pedro that  
16 I did know the lady; and he told me that he wanted to rip  
17 her off, but he needed someone to help him.

18 "I told Pedro that I had a friend by the  
19 name of Rene Garcia. Pedro was driving his truck; and  
20 then we decided to stop by Rene's house located on  
21 Carolina Street. When we got there, I talked to  
22 Rene's --" I'm sorry. "When we got there, I talked to  
23 Rene, and I told him that Pedro wanted to break into a  
24 house, and I asked Rene if he wanted to help Pedro out.  
25 Rene told me, 'Yeah,' and he got into the truck.

1                    "At this time I was now driving the truck.  
2 I told Rene that it was an old lady's house on  
3 Morningside Road. I passed by the trailer home so they  
4 could see how it was, location, house, and surrounding  
5 areas. I went to Morningside Park and I told Pedro and  
6 Rene that for both of them to go in Pedro's truck, but  
7 for Rene to be lying down in the bed of the truck. I  
8 told Pedro to get off and talk to the lady, that just  
9 tell her that he, Pedro, wanted to rent a lot, for him to  
10 ask her to show him a solar.

11                   "After he would take Ms. Harrison out of  
12 the office, for him to click the alarm to unarm it -- for  
13 him to click the alarm to unarm it. That would give Rene  
14 the signal for him to get off of the truck.

15                   "I then told Rene to go through the front  
16 door and find her room, and somewhere in her closet was  
17 going to be some money. He had about ten to 15 minutes  
18 to get the money and then get out; and once he had the  
19 money, for him to go out through the back door.

20                   "Once he was out the back door, Rene was  
21 supposed to cut across the field and wait for me at Billy  
22 Mitchell. There is a concrete wall that has been knocked  
23 down, and that is where Rene was supposed to wait for me.

24                   "I was at the park waiting for Pedro to  
25 pick me up so I could tell him where Rene was going to be

1 and pick him up. And then I waited there at the park for  
2 20 to 25 minutes. I then saw the truck drive into the  
3 park, and they stopped next to where I was.

4 "I went around the passenger side of the  
5 truck and Rene lowered the window. I saw that Rene was  
6 holding a screwdriver in his right hand. The screwdriver  
7 was covered with blood and his hand was splattered with  
8 some blood. I then saw a blue suitcase on Rene's lap and  
9 a tackle box was between Pedro and Rene.

10 "The tackle/toolbox was open and Pedro was  
11 looking through it. I reached into the truck, and I  
12 grabbed the handle to the blue suitcase and I thought  
13 that it was going to open. The suitcase was closed, so I  
14 picked it up a little bit and I noticed that it was  
15 closed. I then let it go; and that is when I asked Rene  
16 what had happened.

17 "Rene looked at me and he told me that he  
18 had killed her. I glanced towards Pedro and I saw that  
19 one of his hands were on the steering wheel and the other  
20 was going through the tackle/toolbox. Pedro then looked  
21 at me, and I could tell by the look on his face that he  
22 was scared.

23 "After this, I stepped back from the  
24 truck, and I told Pedro and Rene to leave me there and I  
25 would go home walking. Then they took off; and I stayed

1 at the park for about five minutes smoking a cigarette.  
2 That is when I started walking towards my house. I got  
3 to about the Bad Boys Shop located on Central Avenue; and  
4 that is when Pedro and Rene came up behind me in the  
5 truck.

6 "I opened the passenger door to the truck  
7 and I got in. Pedro then took me on the -- Pedro then  
8 took me home; and on the way there, he told me that Rene  
9 had thrown out the screwdriver out the window. Pedro  
10 said that the screwdriver landed somewhere between a  
11 caliche driveway and a palm tree. He also told me that  
12 the blue suitcase was on California Road right next to  
13 the resaca on the left side.

14 "By then we were already at my house and I  
15 got off. I told them to act like they did not know me  
16 because I did not want to -- I did not want any part of  
17 this. It was all supposed to be a ripoff, but then --  
18 but they turned it into a murder.

19 "While at Brownsville --" I'm sorry.  
20 "While at Morningside Park before Pedro and Rene took off  
21 towards the house to commit the ripoff, they both got off  
22 the truck; and Pedro pushed the back rest of his seat  
23 forward and took out two screwdrivers. They had a  
24 screwdriver each. Rene put one of the screwdrivers in  
25 one of his back pant pockets. I saw Pedro place the

1 screwdriver in his front left pocket.

2 "There was no doubt about the fact that I  
3 planned the whole ripoff, but I never wanted for either  
4 one of them to kill Ms. Harrison. When I saw that Pedro  
5 was grabbing the money from the tackle/toolbox and heard  
6 some crumbling plastic inside, I decided that I did not  
7 want any money that they had just ripped off.

8 "I have given this statement to  
9 Detective Flores on my own free will. And I would like  
10 to say that I have not been threatened or promised  
11 anything in return for what I have said. I have given  
12 this statement because I just want the truth to be told.

13 "I have read this statement and I find it  
14 to be true and correct to the best of my knowledge,"  
15 signed by Ruben Gutierrez.

16 MR. BLAYLOCK: May I approach the witness  
17 again, Judge?

18 THE COURT: You may.

19 Q. (BY MR. BLAYLOCK) I'm going to show you  
20 what's marked as State's Exhibit 45. Do you recognize  
21 this?

22 A. Yes, sir.

23 Q. Okay. And again, did you read all of the  
24 Miranda warnings this time?

25 A. Yes, I did.

1 Q. And did he read all the Miranda warnings on  
2 this date?

3 A. Yes, he did.

4 Q. Did he initial by each one?

5 A. Yes, he did.

6 Q. What did you tell him after he read each  
7 paragraph?

8 A. To go ahead and initial each paragraph at the  
9 end with his initials on it.

10 Q. Okay. After he had read it?

11 A. Yes, sir.

12 Q. Okay. And did he do that?

13 A. Yes, he did.

14 Q. His initials, do they appear on there?

15 A. Yes, they do.

16 Q. Okay. Now, he had already given one statement.  
17 When did the next statement come?

18 A. He gave the following statement after the  
19 statement was read and signed, initialed; and then  
20 Sergeant Galvan had asked him some questions. And during  
21 that interview, she decided to go ahead and include that  
22 information that she had gotten from the interview with  
23 him to place it in the second statement, which is that  
24 statement right there.

25 Q. Okay. So immediately after he gave one

1 statement, he adds on to it?

2 A. Yes, sir.

3 Q. Okay. Is the initial part of it exactly the  
4 same?

5 A. Yes, sir.

6 Q. Okay. Just the add-on part?

7 A. Yes, sir.

8 Q. And were you there the whole time?

9 A. Yes, I was.

10 MR. BLAYLOCK: I've already shown defense  
11 State's Exhibit 45. The State would move to admit  
12 State's Exhibit 45.

13 MR. REYES: We just reurge all the  
14 objections we previously made, Your Honor.

15 THE COURT: That'll be overruled.  
16 Forty-five will be admitted.

17 **(State's Exhibit Number 45 admitted)**

18 Q. (BY MR. BLAYLOCK) Okay. Again, while all  
19 this is going on when Sergeant Galvan gets him to add a  
20 few things on here, has he been threatened?

21 A. Never.

22 Q. Coerced?

23 A. Never.

24 Q. Did you withhold food or water?

25 A. No, sir.



1           Q.    Did you do anything to make him give a  
2 statement?

3           A.    No, I didn't.

4           Q.    Okay. What is your attitude at this time?

5           A.    Well, he could give it if he wanted to; and we  
6 already had the other statements to back up the warrant  
7 that we already had obtained for him.

8           Q.    Okay. All right. Now, you say the second  
9 statement, State's Exhibit 45, is exactly the same up to  
10 what point? Could you point it out in here? I don't  
11 want to have you read the whole thing again.

12          A.    Okay. Right here.

13          Q.    Okay. Can you start at this paragraph right  
14 here, which is the last paragraph of the other statement,  
15 and continue on and tell the jury what he added on to his  
16 statement.

17          A.    Okay. "There was no doubt about the fact that  
18 I planned the whole ripoff, but I never wanted for either  
19 one of them to kill Ms. Harrison. When I saw that Pedro  
20 was grabbing the money from the tackle box and heard some  
21 crumbling plastic, I decided that I didn't want any money  
22 and that they -- any money that they had just ripped off.

23                    >About the last week of June or the first  
24 of July, Chacho ripped off Ms. Harrison. This was the  
25 third or fourth time but the last time that I know that

1 Chacho, Avel Cuellar, ripped off Ms. Harrison. Chacho  
2 took between 30 and 40 grand this last time. Chacho told  
3 me to hold on -- to hold it -- Chacho told me to hold it  
4 for him. He gave me 10,000 for me.

5 "This is the reason that I knew that  
6 Ms. Harrison had a lot of money. Chacho would get drunk  
7 and talk a lot of shit. Chacho, Crispin and myself would  
8 hang around the back of Ms. Harrison's home and drink.

9 "There was one time when I was in the back  
10 drinking. It was some time in April. She came outside  
11 and started arguing with Chacho because he was drinking.  
12 He didn't do any work that day, so Ms. Harrison was  
13 upset. Ms. Harrison told Chacho she was going to kick  
14 him out.

15 "She went inside; and about two or three  
16 minutes later he walked inside. I could hear them  
17 arguing with each other. I'm pretty sure he hit her, but  
18 I didn't see -- but I didn't see. She came outside  
19 holding one side of her face. She went out the back door  
20 and walked to the front. I followed her to see what had  
21 happened. She was crying. I talked with her. She told  
22 me how lonely she was and how mean Chacho was with her,  
23 mistreating her all the time.

24 "After I finished talking with her, I went  
25 back to the -- went back to the back and Chacho was

1 already there drinking. I went to my car to get some  
2 cigarettes. I noticed in the drinking --" I'm sorry. "I  
3 noticed in the passenger side of my car a little satchel;  
4 and I asked Chacho what it was. He told me to take it to  
5 my house and hold it for him, he would pick it up later.

6 "I took off; and about three days later he  
7 went to my house. I gave him the satchel. This is the  
8 time that he gave me about \$10,000. I believe that  
9 Chacho was ripping off Ms. Harrison because he was  
10 shooting up heroin. He also smoked marijuana.

11 "Crispin was always inside Ms. Harrison's  
12 house also. There was one time when I saw him with a  
13 bag -- with a big stack of \$100 bills. Crispin was like  
14 real close friends with her.

15 "Like yesterday he went over to my house  
16 looking for me. I don't know what he wanted. My friends  
17 were there. I wasn't -- I wasn't -- my friends -- my  
18 friends were there. I wasn't. My friends told me he was  
19 in a brand new Dodge Ram truck with chrome rims. He  
20 would brag about how he and Chacho would stay up for two  
21 or three days doing cocaine and stuff. When Chacho would  
22 get drunk, he would think he was high and mighty; and he  
23 and Crispin would fight. Crispin would beat him up.

24 "I have given this statement to  
25 Detective Flores on my own free will; and I would like to

1 say that I have no -- not been threatened or promised  
2 anything in return for what I have said. I have given  
3 this statement because I just want the truth to be told.

4 "I have read this statement and find it to  
5 be true and correct to the best of my knowledge."

6 Q. All right. This statement was given on the  
7 13th?

8 A. Yes, sir.

9 Q. Okay. And by this time, has Crispin or has  
10 Avel Cuellar been cleared as a suspect?

11 A. Yes, sir.

12 Q. Okay. And was Crispin ever a suspect?

13 A. At the beginning of the investigation he was.

14 Q. Okay. Had he been cleared by this time also?

15 A. Yes, sir.

16 Q. Okay. But this defendant was trying to bring  
17 them down in some way?

18 A. That is correct.

19 Q. All right. After he gave this statement, did  
20 you all go anywhere?

21 A. Yes, we did.

22 Q. And where did you go?

23 A. After the statement was obtained, Ruben told me  
24 that he wanted to show me --

25 MR. REYES: I would object, Your Honor.

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1 It calls for hearsay.

2 THE COURT: Overruled.

3 MR. REYES: Can we have a running  
4 objection, Your Honor?

5 THE COURT: You may.

6 A. He told me that he wanted to show us where the  
7 murder weapon was at.

8 Q. (BY MR. BLAYLOCK) Okay. And he described it  
9 in these statements where he thought they were?

10 A. That is correct.

11 Q. Okay. And also the blue suitcase?

12 A. Yes, sir.

13 Q. All right. So tell me what -- how did that  
14 take place?

15 A. Detective Pineda, myself and Ruben Gutierrez  
16 got into my unit; and we proceeded to drive towards the  
17 area that Ruben was telling us --

18 Q. Tell the jury what you mean by your unit.

19 A. Okay. It's my detective car that I use while  
20 working.

21 Q. Okay. Is this a marked car or an unmarked car?

22 A. It's an unmarked car.

23 Q. Okay. Does it have any bars between the driver  
24 and the passenger seats?

25 A. No, it doesn't.

1 Q. It's just a regular car?

2 A. Yes, sir.

3 Q. Okay. So you got in your car; and where did  
4 you go?

5 A. We started to drive towards the location that  
6 Ruben was advising us to go to.

7 Q. Okay. And where did you go? Tell the jury the  
8 route that you took.

9 A. We went down -- we made it down to Southmost  
10 Road; and we made a left turn on Morningside by the  
11 Castillo Elementary. And we passed Ms. Harrison's  
12 trailer park by; and then we made it all the way towards  
13 Apollo and the Iowa intersection. From there we  
14 continued going straight; and then we came to an abrupt  
15 stop where Ruben told us to stop.

16 Q. Okay. And where was that at?

17 A. This was close to the intersection of Norton  
18 Drive and Morningside Road.

19 Q. All right. And what -- is there some kind of  
20 manufacturing plant near there?

21 A. Yes, sir.

22 Q. What plant is it?

23 A. Norton.

24 Q. All right. Describe for the jury what the  
25 place looked like when you got there.

1           A.     It was an open field to our right. The Norton  
2 Company was -- the property was to the left. As we were  
3 driving, he told us to make a quick stop and turn into a  
4 caliche driveway that was there in the opening of the  
5 field. And we parked in there; and that's where he  
6 advised us that the screwdriver had been thrown out.

7           Q.     Okay. And did he say that he had personal  
8 knowledge at this time that the screwdriver had been  
9 thrown out?

10          A.     No.

11          Q.     Okay. In fact, what did he tell you about  
12 that?

13          A.     As we were traveling, he was telling us that  
14 Pedro Gracia had told him where the whereabouts of the  
15 screwdriver was at, where they had dumped it.

16          Q.     All right. So he's telling you, "Stop here  
17 because somebody else told me that this is where it was  
18 thrown"?

19          A.     That is correct.

20          Q.     All right. I'm showing you what's been marked  
21 State's Exhibit 48 and 46 and 47. Look these over. Do  
22 all three of these depict the scene as you saw it that  
23 day?

24          A.     Yes, sir.

25          Q.     Okay.

1 MR. BLAYLOCK: I'm showing defense 46  
2 through 48.

3 Q. (BY MR. BLAYLOCK) While they're looking at  
4 those, can you look at Exhibit 49 through 51?

5 MR. REYES: Your Honor, we would just  
6 reiterate all our objections with respect to State's  
7 Exhibits 46, 47 and 48.

8 THE COURT: Okay. That'll be overruled.  
9 Forty-six, 47 and 48 will be admitted into evidence.

10 (State's Exhibit Numbers 46, 47 and 48  
11 admitted)

12 Q. (BY MR. BLAYLOCK) Do these exhibits, 49  
13 through 51, depict the scene as you saw it on that day?

14 A. Yes, sir.

15 MR. BLAYLOCK: I'm showing defense  
16 Exhibits 49 through 51.

17 Q. (BY MR. BLAYLOCK) All right. Now, hold up  
18 State's Exhibit 48 and show the jury and tell them what  
19 that is.

20 A. This is the open field that was to the right of  
21 Morningside Road that Ruben Gutierrez told us to stop at;  
22 and it depicts the little caliche entrance there at  
23 the -- on the side of the road.

24 Q. Okay. Whose car is that?

25 A. That is the unit that I drive.



1 Q. Okay. It's your car?

2 A. Yes, sir.

3 Q. All right. And this is an aerial shot?

4 A. Yes, sir.

5 Q. How did you get this?

6 A. There was a PUB electrical truck there with a  
7 basket; and I was allowed to go ahead and get on and take  
8 an aerial photograph of it.

9 Q. Okay. And this is the field where Ruben told  
10 you that somebody else told him that the murder weapon  
11 was thrown?

12 A. That is correct.

13 Q. And did you find it there?

14 A. No, we didn't.

15 Q. All right. So when you leave this scene, where  
16 do you go?

17 A. He tells us to drive off and to make a left on  
18 Norton Drive and to head towards California Road.

19 Q. Okay.

20 A. Detective Pineda is driving. He's following  
21 his directions.

22 Q. Ruben's giving directions?

23 A. Yes, sir.

24 Q. How many turns did you have to make?

25 A. Three.

1 Q. Okay. And was Detective Pineda following his  
2 directions on each turn?

3 A. Yes, sir.

4 Q. Okay. And where did you end up?

5 A. We ended up on California Road.

6 Q. Is that out near the airport?

7 A. Yes, sir.

8 Q. Whereabouts in terms of the airport?

9 A. I believe it borders -- the fence line borders  
10 California Road.

11 Q. Okay. So is it behind the airport, then?

12 A. Yes, sir.

13 MR. BLAYLOCK: Move to admit State's  
14 Exhibit 49 through 51.

15 MR. REYES: We just reiterate the same  
16 objections, Your Honor, we've previously made.

17 THE COURT: Okay. It'll be overruled.  
18 Forty-nine through 51 will be admitted.

19 (State's Exhibit Numbers 49, 50 and 51  
20 admitted)

21 Q. (BY MR. BLAYLOCK) All right. So you're  
22 driving on California Road on the back side of the  
23 airport.

24 A. That is correct.

25 Q. Tell the jury what happens.

1           A.     We're driving down the caliche road and we're  
2 driving at a pace and we're asking Ruben if it was right  
3 here.

4                     And he says, "No. Keep on going. Keep on  
5 driving."

6                     And we keep slowing down, "Is it here?"

7                     He says, "Keep on driving. It's a little  
8 bit further. It's a little bit further."

9           Q.     How fast is the vehicle going?

10          A.     Maybe -- it's a caliche road. It's bumpy.  
11 Maybe 20 miles an hour maybe.

12          Q.     Okay.

13          A.     And he would tell us to keep going, keep going;  
14 and finally we make it to a grassy, wooden area on the  
15 left hand side next to a resaca.

16          Q.     Okay. And then how do you stop?

17          A.     Well, he told us to come to a stop right there  
18 right in front of the wooded area and told us to stop.

19          Q.     Did he tell you abruptly or --

20          A.     No. He told us, "A little bit further, a  
21 little bit further." And he said, "Right here."

22          Q.     Okay. So you came to a stop next to a wooded  
23 area?

24          A.     That is correct.

25          Q.     And what did he tell you was out there?

1           A.    He told us that the blue suitcase in which the  
2 money was located in was inside of the wooded area.

3           Q.    All right. And who got out of the car to go  
4 look for the blue suitcase?

5           A.    Detective Pineda.

6           Q.    Where is he seated?

7           A.    He's in the driver's side. He's driving.

8           Q.    Okay. And on which side of the road as you're  
9 headed out California Road, what are you -- what road are  
10 you headed towards?

11          A.    Towards South Indiana.

12          Q.    South Indiana. So you're headed towards South  
13 Indiana. Which side of the road is this wooded area on?

14          A.    On the left hand side.

15          Q.    Okay. So it's on the driver's side?

16          A.    Yes, sir.

17          Q.    Okay. And Detective Pineda gets out of the  
18 driver's side of the vehicle?

19          A.    Yes, sir.

20          Q.    And what does he do?

21          A.    He starts walking towards the direction that  
22 Ruben had pointed at and saying where the suitcase would  
23 be located at.

24          Q.    Okay. Detective Pineda is out there walking  
25 along in the woods?

1 A. Yes, sir.

2 Q. Okay. Tell us what happened next.

3 A. After Detective Pineda went into the little  
4 fenced area that was there, he went into the woods and he  
5 was walking about looking for the blue suitcase.

6 Q. And then what happened?

7 A. Ruben Gutierrez advises me that it's not --  
8 that's not where the suitcase is located at, that he'll  
9 show me exactly where the suitcase is located at.

10 Q. Okay. So Detective Pineda is in the wrong  
11 area?

12 A. Yes, sir.

13 Q. And Ruben sets him straight, "He's in the wrong  
14 area. Come over here"?

15 A. That is correct.

16 Q. All right. So do you get Ruben out of the car?

17 A. Yes, sir. I get off of the car and I get Ruben  
18 off; and he walks to the wooded area.

19 Q. He walks where?

20 A. Towards the wooded area.

21 Q. Okay. And what does he do once he gets up  
22 there?

23 . A. He's walking towards the wooded area; and  
24 there's like a barbed wire fence. As soon as he --  
25 before he gets to the barbed wire fence, he gets there,

1 and he's handcuffed in the front, and he goes with his  
2 hand, he signals, "It's right there." (Spanish spoken).  
3 And he does the motion like this (indicating) pointing  
4 into the wooded area.

5 Q. Exactly where it is?

6 A. Yes, sir.

7 Q. And all the time he's telling you, "That's  
8 where somebody else told me, where Pedro told me where it  
9 would be"?

10 A. Yes, sir.

11 Q. But he showed you exactly where it was?

12 A. Yes, sir.

13 Q. State's Exhibit 51, is that what he could see  
14 from where he was?

15 A. Yes, sir.

16 Q. Can you see the blue suitcase?

17 A. Yes, sir.

18 Q. Could you see it from the road?

19 A. No, sir.

20 Q. Detective Pineda missed it totally?

21 A. Yes, sir.

22 Q. He got off and he pointed exactly where it was?

23 MR. REYES: Judge, I'm going to object to  
24 counsel leading his witness. Also he's repeating every  
25 answer that this witness gives.

1                   MR. BLAYLOCK: Recapping the testimony as  
2 I'm showing the picture, Judge.

3                   THE COURT: He can recap. Go ahead.

4           Q.     (BY MR. BLAYLOCK) All right. So what do you  
5 do once he points out the suitcase?

6           A.     At this time I'm calling Detective Pineda back  
7 because he's following -- he's inside the woods trying to  
8 locate the suitcase. So I tell him -- advise him to come  
9 back, that, you know, Ruben had already pointed it out to  
10 us.

11          Q.     Okay. So you're saying, "Detective Pineda,  
12 come back. You're in the wrong place"?

13          A.     Yes, sir.

14          Q.     All right. And once Detective Pineda came  
15 back, what did he proceed to do?

16          A.     He took the camera kit that was in the trunk of  
17 my car and he proceeded to photograph the location of  
18 where the suitcase was located at.

19          Q.     Okay. So before anybody touched the blue  
20 suitcase, you took photos of it?

21                   MR. REYES: I'm going to object, Your  
22 Honor, to counsel leading his own witness.

23                   THE COURT: Don't lead your witness,  
24 counsel.

25          Q.     (BY MR. BLAYLOCK) Did that happen?

1 A. Yes, sir.

2 Q. Okay. Did anybody touch it when these photos  
3 were taken?

4 A. Not until after the photos were taken.

5 Q. Okay. Hold it up and point to the jury out  
6 what's what in that picture.

7 A. Here there's the blue suitcase, and it appears  
8 to be manila folders on the outside of it.

9 Q. Okay. And in State's Exhibit 50, is that  
10 another view of that picture?

11 A. Yes, it is.

12 Q. And State's Exhibit Number 49, describe for us  
13 what that is.

14 A. That appears to be a piece of paper with some  
15 sort of writing on it.

16 Q. Did you all pick that up?

17 A. Yes, sir.

18 Q. All right. Once you got done taking the  
19 pictures, did you walk up to the items?

20 A. Yes, sir.

21 MR. BLAYLOCK: I need to approach again,  
22 Judge.

23 THE COURT: Go ahead.

24 Q. (BY MR. BLAYLOCK) I show you State's  
25 Exhibit 52 through 54. Do these photos look like the way



1 you saw it that day?

2 A. Yes, sir.

3 Q. Look at each one and tell me --

4 A. These photos were taken by Detective Pineda.

5 Q. While you were there?

6 A. I was outside of the wooded area by the side of  
7 the car.

8 Q. Okay. And did you go up to the blue suitcase  
9 eventually?

10 A. Yes, I did.

11 Q. And do these photos depict the way you saw it?

12 A. Yes, sir.

13 MR. BLAYLOCK: I'm showing defense 52  
14 through 54.

15 Move to admit 52 through 54.

16 MR. REYES: Judge, we'll make all the  
17 previous objections we've made with respect to these --  
18 this evidence.

19 In particular, we also object to State's  
20 Exhibit 53 and also 54. They have some writing in there  
21 which is hearsay. It has not been properly  
22 authenticated.

23 THE COURT: All right.

24 MR. BLAYLOCK: They're photos of what they  
25 found, Judge.

1 THE COURT: The writing is on the items  
2 that were found there?

3 MR. REYES: That's correct, Judge.

4 MR. BLAYLOCK: Yes, sir.

5 THE COURT: The objections will be  
6 overruled. Fifty-two through 54 will be admitted.

7 (State's Exhibit Numbers 52, 53 and 54  
8 admitted)

9 Q. (BY MR. BLAYLOCK) All right. And just so the  
10 jury will know, 52, 53 and 54, are these the items that  
11 were found around the blue suitcase?

12 A. Yes, sir.

13 MR. REYES: I'm going to object, Your  
14 Honor, to counsel leading his witness.

15 THE COURT: Overruled.

16 Q. (BY MR. BLAYLOCK) Okay. Now, sir, when you  
17 got up to that suitcase, did you take possession of it?

18 A. Detective Pineda secured it, sir.

19 Q. Did the suitcase have any writing on it that  
20 you saw?

21 A. Yes, it did.

22 Q. What did it say?

23 A. "Mr. Harrison" on the back.

24 Q. Okay. I'm showing you what's marked State's  
25 Exhibit 56. Does this look familiar to you?

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1 A. Yes, sir.

2 Q. Is this the exact suitcase that you found that  
3 day?

4 A. Yes, it is.

5 Q. And how do you know?

6 A. It says Roberto A. Harrison and the telephone  
7 number on the back.

8 Q. And it's the exact one that you found?

9 A. Yes, sir.

10 Q. Okay. Is it in the same condition as when you  
11 found it?

12 A. Yes, sir.

13 MR. BLAYLOCK: I'm showing defense State's  
14 Exhibit 56.

15 MR. REYES: Judge, we would reurge all the  
16 previous objections we've made. And also in particular,  
17 there's a plastic bag on the side which has writing on  
18 it. That's hearsay. It has not been properly  
19 authenticated or identified. There's some documents  
20 inside this State's Exhibit 56. It has writing in it.  
21 It's hearsay; and it has not been properly authenticated.  
22 We would object.

23 MR. BLAYLOCK: I'll take the exhibit  
24 sticker and the evidence tag off the side, Judge.

25 THE COURT: All right. Take that off.

1 What's inside of it?

2 MR. BLAYLOCK: What's inside is just  
3 what's in the picture, Judge. It just says --

4 MR. REYES: We would object to counsel  
5 testifying before the jury.

6 MR. BLAYLOCK: Well --

7 THE COURT: This is what's in the  
8 photograph?

9 MR. BLAYLOCK: Yes, sir. This is already  
10 in the photograph.

11 THE COURT: Okay. You need to mark those  
12 other items inside so the record will indicate what was  
13 inside the suitcase. The suitcase is just one item.

14 MR. BLAYLOCK: I'll mark this as 56A.

15 MR. REYES: There's some other documents,  
16 Your Honor, in here that we would object to.

17 MR. BLAYLOCK: We'll just take these out.

18 THE COURT: What is that?

19 MR. BLAYLOCK: They appear to be ripped up  
20 pieces of paper, trash. These appear to be maybe -- I  
21 don't know what they are.

22 THE COURT: If you're not going to offer  
23 that, take it out.

24 Q. (BY MR. BLAYLOCK) All right. When you found  
25 this, was it dry or wet?

1 A. I don't recall whether it was dry or wet.

2 Q. Do you want to look at your report?

3 A. Detective Pineda was the one that went ahead  
4 and seized it.

5 THE COURT: Okay. For the record, then,  
6 56 will be admitted into evidence.

7 (State's Exhibit Number 56 admitted)

8 THE COURT: And you marked something 56A?

9 MR. BLAYLOCK: Yes, sir. That's the key  
10 on the inside with the note saying, "This is the key."

11 THE COURT: Okay. Is that what was found  
12 in the suitcase, Detective?

13 THE WITNESS: Yes, sir.

14 THE COURT: 56A will be admitted into  
15 evidence.

16 (State's Exhibit Number 56A admitted)

17 Q. (BY MR. BLAYLOCK) Did you all have to take  
18 this back and let it air dry in your detective area?

19 A. Yes, sir.

20 Q. Okay. And what was the weather like around  
21 that September?

22 A. It was hot and humid.

23 Q. Around the 13th, had it been raining or not?

24 A. Yes, it had.

25 Q. Okay. And the items that were around there,

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1 when you got those items that were around there, what did  
2 you do with them?

3 A. They were seized and also placed into the lab  
4 to air dry.

5 Q. Okay. Could you look at State's Exhibit 32?  
6 Do you recognize that?

7 A. Yes, sir.

8 Q. Is that the exact item that you picked up on  
9 that day?

10 A. Yes, sir.

11 Q. And how do you know?

12 A. It's the photo that was taken that was pictured  
13 in the photograph.

14 Q. Okay.

15 MR. BLAYLOCK: I show defense State's  
16 Exhibit 32.

17 Q. (BY MR. BLAYLOCK) Look at State's Exhibit 57.  
18 Do you do you recognize those items?

19 A. Yes, sir.

20 Q. Are those the exact items that were in that --  
21 in the field that you picked up?

22 A. Yes, sir.

23 Q. And how do you know?

24 A. They were also photographed and placed and --  
25 seized and placed into the air lab to air -- the lab to

1 air dry.

2 Q. Do you recognize them?

3 A. Yes, sir.

4 Q. Are they easily identifiable by looking at  
5 them?

6 A. Yes, sir.

7 MR. BLAYLOCK: I show defense State's  
8 Exhibit 57 also.

9 Move to admit State's Exhibit 32, Judge.

10 MR. REYES: Judge, as to that one, we're  
11 going to object. There's some writing that they're  
12 attempting to introduce. They haven't authenticated  
13 whose writing that is. It's hearsay.

14 MR. BLAYLOCK: Actually we have, Judge.  
15 Avel Cuellar identified it as Ms. Harrison's writing.

16 THE COURT: Now, these papers were found  
17 outside of the suitcase?

18 THE WITNESS: Yes, sir, in the immediate  
19 area right outside the suitcase.

20 THE COURT: Laying on the ground?

21 THE WITNESS: Yes, sir.

22 THE COURT: Thirty-two -- the objection  
23 will be overruled, and it'll be admitted.

24 **(State's Exhibit Number 32 admitted)**

25 Q. (BY MR. BLAYLOCK) State's Exhibit 32, can you

1 read to the jury what it says on there?

2 A. It says, "Ruben owes me \$50 plus \$150 equals  
3 200 total, first personal loan" or "total personal loan."

4 Q. Okay.

5 MR. BLAYLOCK: May I publish 32 to the  
6 jury, Judge?

7 THE COURT: You may.

8 MR. REYES: Judge, as to State's Exhibit  
9 57 we would object. There's a property evidence report  
10 that's attached to it with writing. It's hearsay. It  
11 hasn't been identified.

12 We would also object to what is inside  
13 what has been marked as State's Exhibit 57. It has  
14 documents which have writing on it and have not been  
15 properly identified. It would be hearsay.

16 MR. BLAYLOCK: They're easily identified  
17 items, Judge. I can take them out of the bag, take the  
18 evidence tag off.

19 THE COURT: What's the relevance of this?

20 MR. BLAYLOCK: It's just stuff found  
21 laying around with the -- it shows some activity took  
22 place is what I'm trying to show, moving things around.

23 MR. REYES: We also object to the writing,  
24 Your Honor, on the plastic bag. It hasn't been properly  
25 identified.



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1 THE COURT: The evidence card?

2 MR. REYES: The evidence card has writing  
3 on the front on the plastic bag.

4 THE COURT: This?

5 MR. REYES: Yes.

6 THE COURT: Just tell him to identify the  
7 writing that's on the back.

8 Q. (BY MR. BLAYLOCK) Now, sir, when you picked  
9 these items up, what did you put them in?

10 A. They were placed in the C.I.D. lab to air dry.  
11 They were placed on the sink to dry out.

12 Q. And after they're air dried, what are they put  
13 into?

14 A. They're placed into the property evidence room.

15 Q. Inside what?

16 A. A locker.

17 Q. Inside a plastic bag?

18 A. Yes, sir.

19 Q. Okay.

20 A. I'm sorry.

21 Q. Look at the plastic bag. What is an I number?

22 A. The I number is a little abbreviation for  
23 incident number.

24 Q. Okay. And what is the incident number on this  
25 case?

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1           A.     1998 --

2                   MR. REYES: I object to counsel, Your  
3 Honor, having him testify from something that's not  
4 admitted into evidence.

5                   THE COURT: It's overruled.

6           Q.     (BY MR. BLAYLOCK) Is that the same -- just  
7 tell me this. Is that the same incident number as the  
8 incident for this case?

9           A.     Yes, it is.

10          Q.     And who put those writings on there?

11          A.     I believe Merlin Rasco or Detective Juan  
12 Hernandez.

13          Q.     Okay. And what is Merlin Rasco's job?

14          A.     He's the one that secures the property evidence  
15 that's been seized or recovered into the evidence room.

16          Q.     Okay. Do you recognize these writings?

17          A.     Yes, sir. Juan Hernandez' initials.

18          Q.     Okay. So are these the writings that are  
19 normally on evidence so you can keep track of evidence?

20          A.     Yes, sir.

21          Q.     All right.

22                   MR. BLAYLOCK: I ask -- this slip, I can  
23 take this off if it's objectionable.

24                   THE COURT: It's just an evidence slip.

25                   MR. REYES: May I take this witness on

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1 voir dire, Your Honor?

2 THE COURT: Go ahead.

3 VOIR DIRE EXAMINATION

4 BY MR. REYES:

5 Q. Officer, let me show you what has been marked  
6 as State's Exhibit Number 57. On the top left hand  
7 corner where the square is right here, is that your  
8 handwriting?

9 A. No, it isn't.

10 Q. Okay. And you don't have any personal  
11 knowledge as to who made those writings; is that correct?

12 A. I believe it was --

13 Q. I'm sorry. Personal -- were you present --

14 A. No.

15 Q. -- when those markings --

16 A. No.

17 Q. -- were made?

18 A. No.

19 Q. Inside the red evidence tag, do you recognize  
20 those?

21 A. Yes, I do.

22 Q. Okay. Were you present when those markings  
23 were made?

24 A. No, I wasn't.

25 Q. Are those markings yours?

1 A. No, they're not.

2 Q. When you look down here where there are numbers  
3 in parenthesis and I number followed by a set of numbers,  
4 did you personally make those markings?

5 A. No, I didn't.

6 Q. Were you present when those markings were made?

7 A. No, I didn't.

8 Q. I show you in the back where it says, "Property  
9 Evidence Report." Did you prepare this report yourself?

10 A. Yes, I did.

11 Q. This is all your handwriting?

12 A. That is correct.

13 Q. Everything from start to finish is what you  
14 have personally prepared?

15 A. That is correct.

16 Q. Okay. And when you look at the back, the same  
17 thing with that?

18 A. Yes, sir.

19 Q. Okay. When you look at the second part down  
20 here where it says, "chain of custody," is that your  
21 writing there?

22 A. No, it isn't.

23 Q. Okay. Were you present when that writing was  
24 made?

25 A. No, I wasn't.

1 MR. REYES: We would still object, Your  
2 Honor. There's writings that have not been identified.  
3 It's hearsay and we would object.

4 THE COURT: The objection will be  
5 overruled. Fifty-seven will be admitted into evidence.

6 (State's Exhibit Number 57 admitted)

7 DIRECT EXAMINATION CONTINUED

8 BY MR. BLAYLOCK:

9 Q. All right. This stuff that you found -- all  
10 the things that you found around that suitcase, as an  
11 investigator, what does that indicate to you?

12 A. That's evidence.

13 Q. That's evidence, but what does it indicate?  
14 What happened at that site?

15 A. That something must have been taken out,  
16 particularly money, out of the blue suitcase.

17 Q. Okay. So there was some activity that took  
18 place there?

19 A. Yes, sir.

20 Q. Okay. Did it indicate to you, in your  
21 experience, that they went there and took a short time or  
22 a long time?

23 A. There was a brief -- there was some brief time  
24 there removing the contents and then leaving the area.

25 Q. So they took the important stuff and scattered

1 around the unimportant stuff?

2 MR. REYES: I'm going to object, Your  
3 Honor, to counsel leading his own witness.

4 THE COURT: I'll sustain the objection.

5 Q. (BY MR. BLAYLOCK) Well, how do you feel? Do  
6 you feel they took some important stuff and left some  
7 unimportant stuff?

8 A. Yes, sir.

9 Q. Now, after Rene Garcia gave a statement, you  
10 went out also, didn't you?

11 A. Yes, sir.

12 Q. And did he take you to any place?

13 A. Yes, he did.

14 Q. Where did he take you?

15 MR. REYES: I'm going to object, Your  
16 Honor, as to relevance.

17 THE COURT: Overruled.

18 A. He took us to the intersection of Norton Drive  
19 and Morningside Road.

20 Q. (BY MR. BLAYLOCK) Okay. And what did you  
21 find there?

22 A. He pointed out a -- what appears to be a  
23 toolbox.

24 MR. REYES: I would object, Your Honor.  
25 It calls for hearsay.

1 THE COURT: Overruled.

2 Q. (BY MR. BLAYLOCK) Just tell me what you  
3 found.

4 A. We found a toolbox, plastic toolbox.

5 Q. Let me show you what's marked as State's  
6 Exhibit Number 55. Do you recognize that?

7 A. Yes, sir.

8 Q. Is this the exact item that you found on that  
9 day?

10 A. Yes, sir.

11 Q. How do you recognize this is the exact item?

12 A. We took photographs of the item while it was  
13 being recovered.

14 Q. And State's Exhibit Number 47 is already in  
15 evidence. What does it describe?

16 A. It describes this tackle box in the little  
17 canal.

18 Q. Okay. So this is where you found that?

19 A. That is correct.

20 Q. All right.

21 MR. BLAYLOCK: I'm showing defense State's  
22 Exhibit 55.

23 MR. REYES: Your Honor, we would just  
24 reiterate all the objections we previously made with  
25 respect to this exhibit. We would also object to the

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1 contents of State's Exhibit Number 55 in that it has bags  
2 inside of it which have markings that have not been  
3 properly identified. We would object as to relevance and  
4 also as hearsay.

5 MR. BLAYLOCK: The bags, Judge, at one  
6 time had the contents of what was left in here.

7 THE COURT: Let me see it. What are  
8 these?

9 THE WITNESS: Those are the bags, sir,  
10 that the box was placed into after it was taken down to  
11 the property evidence room.

12 THE COURT: Oh, from the police  
13 department?

14 THE WITNESS: Yes, sir.

15 THE COURT: And you used two of them to --

16 THE WITNESS: One went in; and then the  
17 other one went over the top of it like --

18 MR. BLAYLOCK: We'll withdraw the bags.

19 THE COURT: All right. Anything else in  
20 there?

21 MR. BLAYLOCK: Some paper clips.

22 THE COURT: That's it?

23 MR. BLAYLOCK: Yes, sir.

24 THE COURT: Fifty-seven -- the objection  
25 will be overruled and 57 will be admitted into evidence.



1 Q. (BY MR. BLAYLOCK) When you found it, did it  
2 have the paper clips inside it?

3 A. Yes, sir.

4 THE COURT: I'm sorry. That was 55.  
5 Fifty-five will be admitted.

6 MR. BLAYLOCK: Fifty-five, yes, sir.

7 (State's Exhibit Number 55 admitted)

8 Q. (BY MR. BLAYLOCK) And it, too, was wet when  
9 you found it?

10 A. That is correct.

11 Q. All right. Did you take it back to the  
12 station --

13 A. Yes, sir.

14 Q. -- to let it air dry?

15 A. Yes, sir.

16 Q. And did Rene Garcia take you anywhere else?

17 A. He also led us to that open field and --

18 Q. Same field?

19 A. Yes, sir.

20 Q. Okay. The one that we have --

21 A. The aerial photo.

22 Q. State's Exhibit 51. He took you to this field  
23 also?

24 A. Yes, sir.

25 Q. All right. And when he took you to this field,

1 did you search the field?

2 A. Yes, we did.

3 Q. How long did you spend searching that field?

4 A. All day Monday, which was the 14th, and part of  
5 Tuesday, the 15th.

6 Q. Okay. How many people were out there searching  
7 the field?

8 A. Approximately 15 people.

9 Q. Did you have metal detectors?

10 A. Yes, sir. Canines.

11 Q. You used canines?

12 A. Yes, sir.

13 Q. What was the theory behind the canines?

14 A. The theory with our police dogs was it would be  
15 able to pick up the human scent off any item that were  
16 used to attempt to locate the item.

17 Q. Okay. Where did -- do you know where the  
18 canines came from?

19 A. The canines came from our department, as well  
20 as the Drug Task Force canine, and also a canine from  
21 McAllen Police Department.

22 Q. And from your conversations with Ruben and  
23 Rene, what exactly were you looking for in that field?

24 A. We were looking for a screwdriver with -- like  
25 clear and red stripes on it.

1 Q. Okay. All right. Now, what was -- what did  
2 you do next in this investigation?

3 A. After we weren't able to locate the  
4 screwdriver, we were just basically putting the case  
5 together.

6 Q. Let me ask you, Detective Flores, when you  
7 talked to Rene Garcia, did it lead you to any money?

8 A. Yes, he did.

9 Q. Okay. And approximately how much?

10 A. \$56,000.

11 Q. Okay. And where was that again?

12 A. It was --

13 MR. REYES: I'm going to object, Your  
14 Honor. It's been asked and answered.

15 THE COURT: Overruled.

16 A. It was at a residence on California Road.

17 Q. (BY MR. BLAYLOCK) Okay. And what part of the  
18 residence?

19 A. It was in the backyard like in what appeared to  
20 be a chicken coop or some type of pen for an animal.

21 Q. Okay. Was it above ground or below ground?

22 A. It was buried under ground.

23 Q. Buried?

24 A. Yes, sir.

25 Q. On California Road?

1 A. Yes, sir.

2 Q. And how much total did you recover from Rene  
3 Garcia? Approximately.

4 A. Approximately \$80,000.

5 Q. Okay. And how much total did you recover from  
6 Pedro Gracia?

7 A. Approximately 11,700.

8 Q. All right. And did you talk to a man by the  
9 name of Juan Pablo Campos?

10 A. I talked to him after some money had already  
11 been recovered from him as well.

12 Q. All right. And whose money was recovered from  
13 Juan Pablo Campos?

14 A. Ruben Gutierrez' money.

15 Q. Okay. And how much money did Juan Pablo Campos  
16 have?

17 A. About 49,000 in one stash, and then 2,000 in  
18 another, and I believe 1,700 in another.

19 Q. Okay. And that was Ruben's money?

20 A. Yes, sir.

21 Q. As a detective having investigated this case --  
22 and you have many years experience, correct?

23 A. Yes, sir.

24 Q. Do you feel you recovered all the money that  
25 Rene Garcia had?

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1 MR. REYES: I'm going to object, Your  
2 Honor. It calls for speculation.

3 THE COURT: It's overruled.

4 Q. (BY MR. BLAYLOCK) Based on your experience.

5 A. On Rene Garcia?

6 Q. Yes, sir.

7 A. Yes, sir.

8 Q. Do you feel that you recovered all the money  
9 that Pedro Gracia had?

10 A. Yes, sir.

11 Q. Do you feel that you recovered all the money  
12 that Ruben Gutierrez had?

13 MR. REYES: I'm going to object, Your  
14 Honor. It calls for speculation.

15 THE COURT: It's overruled.

16 A. No, sir.

17 Q. (BY MR. BLAYLOCK) And how much total money  
18 has been recovered?

19 A. Approximately \$130,000 in cash.

20 Q. Okay. And there's some cars --

21 A. Some vehicles, yes, sir.

22 Q. Jewelry?

23 A. Yes, sir.

24 Q. All right. And you already said TV sets, that  
25 kind of thing.

1 A. Yes, sir.

2 Q. Okay. And do the math for me, Officer. How  
3 much money are we talking about still out there?

4 A. I'd say approximately \$500,000.

5 Q. More or less?

6 A. Give or take.

7 Q. A lot of money?

8 A. A lot of money.

9 Q. All right. Were you able to determine the  
10 route that these three gentlemen took when they left  
11 Ms. Harrison's house?

12 A. Yes, sir.

13 Q. We drew a map, State's Exhibit Number 59. Do  
14 you recognize this?

15 A. Yes, sir.

16 Q. Okay.

17 MR. REYES: I'm going to object to counsel  
18 showing the diagram to the jury, Your Honor. It hasn't  
19 been admitted into evidence yet.

20 THE COURT: Place it away from the jury,  
21 Counsel.

22 Q. (BY MR. BLAYLOCK) Does this diagram  
23 reasonably depict the actual route that was taken?

24 A. Yes, sir.

25 Q. And did you help create this?

1 A. No, sir.

2 Q. Okay. You gave information to help create  
3 this, though, right?

4 A. That is correct.

5 Q. Okay. But in fact, who created it?

6 A. Sergeant Robert Jesse.

7 Q. Okay. And he used a computer?

8 A. Yes, sir.

9 Q. Okay.

10 MR. BLAYLOCK: I show the defense State's  
11 Exhibit 59.

12 MR. REYES: I'm going to object, Your  
13 Honor. It's not to scale. Also, it has writing that has  
14 not been identified. It's hearsay.

15 THE COURT: What writing?

16 MR. BLAYLOCK: It does have writing,  
17 Judge. I'll get him to describe each one as we go  
18 through. I mean, that's why I'm getting it in.

19 MR. REYES: He's not the one that made the  
20 markings, Judge. It would be hearsay.

21 MR. BLAYLOCK: He testified that he gave  
22 this information to the guy who made the map.

23 THE COURT: All right. The objection will  
24 be overruled. Fifty-nine will be admitted.

25 (State's Exhibit Number 59 admitted)

1           Q.     (BY MR. BLAYLOCK) Step off there, Detective.  
2     In fact, you gave this information; you noted this  
3     information for the guy that put it into the computer to  
4     make the map, correct?

5           A.     Yes, sir.

6           Q.     All right. Now, show the jury -- and let's  
7     give them a point of reference. Let's start with  
8     Ms. Harrison's home.

9           A.     This street which appears here in writing is  
10    Morningside Road. This is the resaca that borders  
11    Harrison Mobile Home Park.

12          Q.     Get a little bit closer. Go through it a  
13    little bit slower.

14                   THE COURT: Can you all see over here?

15                   I think you need to move a little further  
16    back so they can see at both ends.

17                   JUROR: Okay.

18          A.     This is the resaca that borders the property of  
19    Ms. Harrison. This is Central Avenue. And you continue  
20    going on Morningside Road until you hit Iowa, which is  
21    now Apollo Drive. I'm sorry.

22          Q.     (BY MR. BLAYLOCK) All right. Now, let's go  
23    through it slowly. The yellow, what does that signify?

24          A.     It's just the route that was taken that we were  
25    led to after Ruben Gutierrez showed us exactly where the



1 evidence was located at.

2 Q. Okay. And Rene Garcia gave you the same route?

3 A. That is correct.

4 Q. Okay. And so, this is the route that the  
5 people who killed and robbed Ms. Harrison --

6 A. That is correct.

7 MR. REYES: Judge, I'm going to object to  
8 counsel leading his own witness.

9 THE COURT: Sustained.

10 MR. REYES: I'd ask the Court to instruct  
11 him, Judge. He's been doing it throughout the testimony  
12 of this witness.

13 THE COURT: Go ahead. Don't lead your  
14 witness, counsel. Go ahead.

15 A. Okay. So what we have here is the route being  
16 taken, which is Morningside Road. It's in the color of  
17 yellow. And it leads us all the way around toward Norton  
18 Drive; and Norton Drive to South Minnesota or Minnesota  
19 right here; and this is California Road. And this is the  
20 resaca that borders where we found the suitcase at.

21 Q. (BY MR. BLAYLOCK) Okay. Let's take it point  
22 by point. Show us Ms. Harrison's house again.

23 A. This is the location here on this map of  
24 Ms. Harrison's property.

25 Q. All right. And take us to where the first

1 point that you all stopped.

2 A. Okay. We were driving on Morningside Road  
3 passed Iowa; and we were driving here. Before we got to  
4 the intersection on Norton Drive and Morningside, we were  
5 told to make a quick stop -- to stop on this location.  
6 And right here in this general area is an open field  
7 where we were looking for the screwdriver.

8 Q. And that's the same area that has the aerial  
9 photograph?

10 A. That is correct.

11 Q. Okay. Hold this. Put this up here on --

12 MR. REYES: I would object, Your Honor.  
13 It's already been admitted into evidence and he's  
14 attempting to alter it.

15 THE COURT: What's that?

16 MR. BLAYLOCK: We're showing it on the  
17 diagram, Judge.

18 MR. REYES: That State's Exhibit Number 59  
19 has already been admitted into evidence; and he's having  
20 this witness mark and alter it.

21 THE COURT: It's overruled. You're going  
22 to tack on a picture?

23 MR. BLAYLOCK: Yes, sir.

24 THE COURT: It's overruled.

25 Q. (BY MR. BLAYLOCK) Tack on the picture

1 above -- or put it up in the margin up there.

2 A. Up here?

3 Q. Right over here.

4 A. Here?

5 Q. That's good. All right. That's where you  
6 searched for about two days?

7 A. That is correct, an open field right here.

8 Q. Okay. Take us to the next point on the map.

9 A. The next point on the map is on Norton Drive.  
10 There's a canal that runs alongside of it. In this canal  
11 is where we found the black plastic tackle box, the  
12 toolbox; and --

13 Q. That's the picture we've already seen of the  
14 toolbox. This is the canal?

15 A. Yes, sir.

16 Q. All right. And how long did you all spend at  
17 that spot?

18 A. Approximately 45 minutes.

19 Q. Who did you have to call to help you get that  
20 out of there?

21 A. We had to call the Brownsville fire department  
22 to come in here and go down into the canal to recover it  
23 for us.

24 Q. Okay. Take us to the next point on the map.

25 A. After -- this is the location where the tackle

1 box, the toolbox was located at. You go down all the way  
2 to Minnesota Road. We made a right turn on to Minnesota;  
3 and then we made a left turn on California Road.

4 Q. Okay. And what's the next point after that?

5 A. We were coming -- well, California Road right  
6 here is the 6900 block is the residence where money was  
7 recovered also from Rene Garcia.

8 Q. Buried in a chicken coop?

9 A. Buried, yes, sir, in a pen.

10 Q. Okay. And then what's the next point on the  
11 map?

12 A. Further down the road is a resaca; and right  
13 next to the resaca was that wooded area where we came to  
14 a stop and we recovered the blue suitcase from.

15 Q. Okay. The blue suitcase that's over there?

16 A. Yes, sir.

17 Q. And that's in all these pictures?

18 A. Yes, sir.

19 Q. All right. You can go ahead and sit back down.

20 A. (Witness complies).

21 Q. Now, when Ms. Harrison was found, do you know  
22 if a sexual assault kit was taken?

23 A. During the autopsy there was a sexual assault  
24 kit performed on her at the autopsy.

25 MR. REYES: I'm going to object, Your

1 Honor. It's irrelevant. It also -- I mean, he's not  
2 qualified to make that -- testify regarding that.

3 THE COURT: It's overruled.

4 Q. (BY MR. BLAYLOCK) Was she found with panties  
5 on or with panties off?

6 A. Without.

7 Q. Okay. And is that the reason for the sexual  
8 assault kit?

9 A. That is correct.

10 Q. And do you know the results of that -- those  
11 tests?

12 MR. REYES: I'm going to object, Your  
13 Honor. He's not qualified to make those determinations  
14 or testify regarding that.

15 THE COURT: It's overruled.

16 A. I don't know the results, but I believe they  
17 came back to be negative.

18 Q. (BY MR. BLAYLOCK) Okay. Negative. Now, were  
19 you able to gather clothes during this investigation?

20 A. Yes, we were.

21 Q. In fact, who brought you the clothes of Ruben  
22 Gutierrez?

23 A. Angie Gutierrez.

24 Q. And what did she tell you in reference to those  
25 clothes?

1 A. She told us that those were the clothes that --

2 MR. REYES: I'm going to object, Your  
3 Honor. It calls for hearsay.

4 THE COURT: Sustained.

5 Q. (BY MR. BLAYLOCK) Okay. But she brought in  
6 some clothes, right?

7 A. That is correct.

8 Q. Were they a white T-shirt and --

9 MR. REYES: I'm going to object, Your  
10 Honor, to counsel leading his witness.

11 THE COURT: Sustained. Don't lead your  
12 witness, counsel.

13 MR. BLAYLOCK: Judge, a leading question  
14 is one that suggests an answer. I'm just asking if they  
15 were.

16 THE COURT: Ask him what clothes were  
17 brought.

18 Q. (BY MR. BLAYLOCK) Okay. Describe the clothes  
19 that were brought.

20 A. There were several shirts, several pants,  
21 several pairs of tennis shoes also.

22 Q. Okay. Were any of them a white T-shirt?

23 A. I don't recall if there was.

24 Q. Were any of them Levi shorts?

25 A. Yes, sir.

1 Q. And were tests done on those?

2 A. Yes, sir.

3 Q. And what are those results?

4 A. Those results --

5 MR. REYES: I'm going to object, Your  
6 Honor. It calls for an answer for which he's not  
7 qualified to make.

8 THE COURT: Overruled.

9 A. Negative.

10 Q. (BY MR. BLAYLOCK) Okay. And what was the  
11 condition of the clothes when they were brought in?

12 A. They were recently washed and they were still  
13 humid.

14 Q. Okay. And did you get clothes from Rene  
15 Garcia?

16 A. Yes, we did.

17 Q. And how did you get those clothes?

18 A. They were seized during the search.

19 Q. Okay. And who pointed those to you?

20 A. I believe his family members were the ones that  
21 pointed those to us.

22 Q. So, you don't -- in each case, do you know  
23 whether those were the clothes that they wore or not?

24 A. I don't know.

25 Q. Okay. In fact, you were given those clothes by

1 family members in each case?

2 A. That is correct.

3 Q. And there were tests done on those clothes as  
4 well?

5 A. Yes, there were.

6 Q. And what were those results?

7 A. Negative.

8 MR. REYES: I object, Your Honor. He's  
9 not qualified to make those determinations.

10 THE COURT: Overruled.

11 Q. (BY MR. REYES) You did get the results from  
12 the lab and they were negative?

13 A. That is correct.

14 MR. BLAYLOCK: Your Honor, I pass the  
15 witness.

16 MR. REYES: May I proceed, Your Honor?

17 THE COURT: You may.

18 CROSS-EXAMINATION

19 BY MR. REYES:

20 Q. I'm going to go ahead and show you what has  
21 been marked --

22 MR. REYES: May I approach, Your Honor?

23 THE COURT: You may.

24 Q. (BY MR. REYES) -- State's Exhibit Number 37.  
25 This has already been admitted as evidence, Officer.



1 Now, you testified earlier -- and we're talking about the  
2 Miranda rights; is that correct?

3 A. That is correct.

4 Q. This is the document that you showed to the  
5 jury earlier; is that correct?

6 A. Yes, sir.

7 Q. And isn't it correct that you testified that  
8 when Ruben Gutierrez came to the department, that you  
9 read to him his Miranda rights; is that correct?

10 A. That is correct.

11 Q. And after you read those Miranda rights to him,  
12 you had him read those; is that correct?

13 A. After I had read the whole statement.

14 Q. Okay. Then you had him go back and read these?

15 A. That is correct.

16 Q. Okay. And after he read them, he initialed  
17 next to each right; is that correct?

18 A. That is correct.

19 Q. Okay. And after you read this bottom portion,  
20 you had him sign; is that correct?

21 A. That is correct.

22 Q. And you had him sign that he understood his  
23 waiver; is that true?

24 A. That is correct.

25 Q. Okay. And who is it that witnessed the State's

1 Exhibit Number 37?

2 A. Santiago Manrique.

3 Q. Okay. And whose signature appears next?

4 A. That is my signature.

5 Q. With respect to that, was Officer Manrique the  
6 only other person who witnessed the signing of this  
7 document?

8 A. That is correct.

9 Q. And nobody else?

10 A. That is correct.

11 MR. REYES: I need another exhibit, Judge.  
12 It's the other waiver.

13 Q. (BY MR. REYES) Let me show you what has been  
14 marked as State's Exhibit Number 43. You testified that  
15 you read those to him; is that correct?

16 A. That is correct.

17 Q. And after you read them to him, then you had  
18 him read it; is that correct?

19 A. That is correct.

20 Q. And you had him initial each right that he had  
21 read those rights; is that correct?

22 A. That is correct.

23 Q. After you read this second part, you had him  
24 read it; is that correct?

25 A. I read the whole document and then I had him

1 read it.

2 Q. And you had him initial that he --

3 A. That is correct.

4 Q. -- read those rights; is that correct?

5 A. Yes, sir.

6 Q. And then you had him sign that he read that  
7 waiver; is that correct?

8 A. Yes, sir.

9 Q. And who is it that witnessed the reading of  
10 this statement?

11 A. This is Detective Pineda.

12 Q. Okay. Is there any other witness on that form?

13 A. Yes, myself.

14 Q. Other than Detective Pineda and yourself, was  
15 there anybody else present during that -- of the reading  
16 of this document?

17 A. No, sir.

18 Q. Let me show you what has been marked and  
19 admitted into evidence as State's Exhibit Number 44 and  
20 also State's Exhibit Number 45; and these are the two  
21 statements that you read to the jury; is that correct?

22 A. That is correct.

23 Q. Okay. Now, isn't it correct that you testified  
24 that these two statements were given on the same day?

25 A. That is correct.

1 Q. And they show exactly the same time; is that  
2 correct?

3 A. That is correct.

4 Q. And you testified that after Detective Galvan  
5 questioned Ruben Gutierrez some more, that she then came  
6 and added some more information; is that correct?

7 A. That is correct.

8 Q. Did you finish talking to Ruben Gutierrez and  
9 have him sign State's Exhibit 44 and then he was taken  
10 back to the jail?

11 A. No. It was done right there and then.

12 Q. Okay. Do you know for a fact whether or not  
13 Sandra Galvan read him his Miranda rights before she  
14 questioned him?

15 A. I had -- I was the only one that read him his  
16 rights.

17 Q. Okay. You stated that Sandra Galvan continued  
18 to question him; is that correct?

19 A. That is correct.

20 Q. My question is, did Sandra Galvan read him his  
21 Miranda warnings?

22 A. I don't -- I don't recall if she did.

23 Q. Do you know whether or not one of these forms,  
24 these Miranda Warnings and Waivers was signed by Ruben  
25 Gutierrez?

1 A. That form --

2 Q. When Sandra Galvan questioned him.

3 A. No, there wasn't.

4 Q. Okay. So to your knowledge, then, she did not  
5 read those -- his rights; is that correct?

6 A. That is.

7 Q. Now, isn't it correct that here at the last  
8 paragraph where it states, "I, Ruben, having been warned  
9 by Detective Flores of my rights," at the bottom portion  
10 before the statement actually starts, it reads, "I  
11 understand all of my rights as stated above; and now that  
12 I know all of my rights, it is my choice to voluntarily  
13 give them up and freely, intelligently and voluntarily  
14 make this statement;" is that correct?

15 A. That is correct.

16 Q. So this is where he's agreeing to waive his  
17 rights; is that correct?

18 A. Once again, yes.

19 Q. Okay. And this is where he says that he  
20 understands his rights; is that correct?

21 A. Yes, sir.

22 Q. But it is not signed or initialed by him in  
23 that space; is that correct?

24 A. That is correct.

25 Q. Okay.

1                   MR. REYES: May I publish State's  
2 Exhibit 44 to the jury, Your Honor?

3                   THE COURT: You may.

4           Q.     (BY MR. REYES) And that's after the first  
5 paragraph; is that correct?

6           A.     That is correct.

7           Q.     So you don't have an actual waiver, a signature  
8 from Ruben Gutierrez stating that he's waiving his  
9 rights; is that correct?

10          A.     That is correct. It's on the original sheet  
11 itself.

12          Q.     But what I'm talking about is State's  
13 Exhibit 44.

14          A.     No, sir.

15          Q.     You don't have one from him; is that correct?

16          A.     No, sir.

17          Q.     Do you have State's Exhibit 43 on there?

18          A.     Yes, sir.

19          Q.     Who was it that witnessed State's Exhibit  
20 Number 43?

21          A.     Detective Pineda and myself.

22          Q.     Earlier you testified that it was  
23 Detective Sandra Galvan who witnessed the signing of  
24 State's Exhibit 43.

25          A.     Okay.

1 Q. Is that a mistake?

2 A. Yes, sir. It's a mistake.

3 Q. So it was actually Detective Pineda and  
4 yourself that signed as witnesses to that exhibit; is  
5 that correct?

6 A. That is correct.

7 Q. Now, isn't it correct that in State's  
8 Exhibit 43 in the bottom part where it says that, "I have  
9 read the statement -- this statement of my rights," and  
10 then in parenthesis it says, "This statements of my  
11 rights have been read to me," neither of those are  
12 signed; is that correct?

13 A. That is correct.

14 Q. So we don't know whether or not Ruben  
15 Gutierrez, in fact, read that paragraph to himself; is  
16 that correct?

17 A. I don't know if he read them to -- he read them  
18 to himself after I had already read them aloud to him.

19 Q. When he was reading them, did he read them out  
20 loud?

21 A. No, sir.

22 Q. So you don't know whether or not he was  
23 actually reading that waiver; is that correct?

24 A. Possibly be.

25 Q. Okay. And you don't know whether or not, in

1 fact, he understood what he was reading; is that correct?

2 A. That's correct.

3 Q. So when you're looking at State's Exhibit 43 as  
4 well as State's Exhibit Number 37, you would agree with  
5 me that the most important part is the second portion of  
6 those documents; is that correct?

7 A. I wouldn't see it as the most important part.

8 Q. Well, you understand that it's one thing  
9 whether or not an individual actually understands his  
10 rights; would you agree with me?

11 A. I agree.

12 Q. Okay. And it's another thing that that person  
13 is agreeing to waive his rights and give you a statement;  
14 is that correct?

15 A. That is correct.

16 Q. So if you don't know for sure whether or not an  
17 individual is willing to waive his statement, then he's  
18 not giving you that statement freely and voluntarily; is  
19 that correct?

20 A. It states on the bottom of the paragraph that  
21 he understands them and that he's waiving them.

22 Q. That wasn't my question. My question was, if  
23 an individual doesn't understand that by signing this  
24 document he's waiving his rights, then that person is not  
25 freely, intelligently and voluntarily waiving his rights;



1 would you agree with me?

2 A. I could agree with you on that.

3 Q. Okay. And you stated earlier that with respect  
4 to those two documents, State's Exhibit 37 and 43, Ruben  
5 Gutierrez did not read those out loud; is that correct?

6 A. That is correct.

7 Q. So you don't know whether or not he understood  
8 what he read; is that correct?

9 A. I can understand that he did understand them by  
10 signing the form.

11 Q. Well, you stated the procedure that you  
12 followed was that you read these documents to him; is  
13 that correct?

14 A. That is correct.

15 Q. And then you had him read these to himself; is  
16 that correct?

17 A. That is correct.

18 Q. And you never had him read these documents out  
19 loud; is that true?

20 A. That is correct.

21 Q. And you stated that after he read these  
22 statements, you had him sign that he read the statement;  
23 is that correct?

24 A. That is correct.

25 Q. Okay. So you don't know whether or not he

1 understood what he read; all you know is that he's  
2 signing that he apparently read what you had him read; is  
3 that correct?

4 A. That is correct.

5 Q. And you stated also that on September the 9th  
6 of 1998 you had gone over to his house; is that correct?

7 A. It had been on September the 8th.

8 Q. The 8th. Okay. If you look at State's exhibit  
9 number --

10 MR. REYES: May I approach again, Your  
11 Honor?

12 THE COURT: You may.

13 Q. (BY MR. REYES) You stated that the first time  
14 you had contact with Ruben Gutierrez was on September the  
15 8th?

16 A. No. That I made contact at the residence was  
17 on September the 8th.

18 Q. Okay. And when was the first time that you  
19 spoke to Ruben Gutierrez?

20 A. It was on the 9th.

21 Q. And this is what's reflected on State's Exhibit  
22 Number 45, which is the statement that he allegedly gave  
23 you; is that correct?

24 A. No, it's not correct.

25 Q. This is not it?

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1 A. No, sir.

2 Q. And it's not stated on here that you went to  
3 talk to him on September the 9th of 1998?

4 A. That says that I went to his residence.

5 Q. Okay. And when is it that you actually spoke  
6 to Ruben Gutierrez?

7 A. On September the 9th at approximately 3:43 p.m.

8 Q. Okay. That was my question. My question, did  
9 you talk to him on September the 9th of 1998?

10 A. Yes, I did.

11 Q. That was the first time you spoke to him; is  
12 that correct?

13 A. Yes, I did.

14 Q. And isn't it true that when you talked to him,  
15 he told you that he did not want to talk to you?

16 A. That is correct.

17 Q. And isn't it correct that even after he told  
18 you he did not want to talk to you, you went back to his  
19 house, picked him up, and talked with him again; is that  
20 correct?

21 A. After I served the warrant, yes, I did.

22 Q. Yes. He didn't initiate any conversations with  
23 you, did he?

24 A. Yes, he did.

25 Q. He wasn't the one that told you that, "Yes, I

1 want to go ahead and give you a statement;" isn't that  
2 correct?

3 A. After I read him his rights, he did say that he  
4 wanted to give me a voluntary statement.

5 Q. You're the one that initiated the  
6 interrogation; is that correct?

7 A. Yes, sir.

8 Q. You brought him in from the jail and took him  
9 to your office so that you would be able to get a  
10 statement from him; is that true?

11 A. That is correct.

12 Q. So you're the one that initiated the  
13 conversation or the interrogation of Ruben Gutierrez on  
14 September the 13th of 1998 --

15 A. Yes.

16 Q. -- true? So earlier when you said that he's  
17 the one that initiated the conversation with you, you  
18 were mistaken?

19 A. That he initiated the voluntariness that he  
20 wanted to give a statement.

21 Q. That's not what I'm talking about. What I'm  
22 saying is that you're the one that went to the jail to  
23 pick him up to give you a statement; is that correct?

24 A. I didn't go to the jail to pick him up.  
25 Someone else did.

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1           Q.    Okay.  You had somebody or somebody picked him  
2 up so that he could give you a statement; is that  
3 correct?

4           A.    That is correct.

5           Q.    That was the whole purpose of going to pick him  
6 up --

7           A.    Yes, sir.

8           Q.    -- true?  So knowing that on September the 9th  
9 of 1998 he told you that he did not want to talk to you,  
10 you still had him brought over so that he would give you  
11 a statement; is that correct?

12          A.    That is correct.

13          Q.    Isn't it true that with respect to that second  
14 statement, which is marked State's Exhibit Number 45  
15 which is what you have on there, that has one additional  
16 page; is that correct?

17          A.    That is correct.

18          Q.    It's totally different from State's Exhibit  
19 Number 44, the other statement?

20          A.    For the -- that paragraph it is.

21          Q.    Right?

22          A.    Yes, sir.

23          Q.    Isn't it correct that when you had Ruben  
24 Gutierrez sign this document, all you told him was that  
25 it was the other document, State's Exhibit Number 44, had

1    been lost and you just needed for him to re-sign State's  
2    Exhibit Number 45?

3           A.    No.  I had him read it to make sure that  
4    nothing had been put in but what exactly that he had  
5    talked about during the second statement.

6           Q.    Well, you stated earlier that what you did is  
7    you had him just initial each and every paragraph.  You  
8    never stated anything about him having read the  
9    statement.

10          A.    I advised Ruben to go ahead and read it for  
11   him -- to ensure him that nothing else but what he had  
12   told -- been interviewed by Ms. Galvan had been put in  
13   there and nothing else.

14          Q.    Well, you stated earlier that it took you 45  
15   minutes from start to finish to get these two statements;  
16   is that correct?

17          A.    Approximately.

18          Q.    Okay.  So what you're saying is that you went  
19   ahead, sat down with Ruben Gutierrez, you allegedly read  
20   him his Miranda warnings, had him read them not only once  
21   but twice, had him sign that he had read them, and then  
22   you took two different statements from him --

23          A.    That is correct.

24          Q.    -- is that correct?

25          A.    Yes, sir.

1           Q.    And you're saying that you -- as he was  
2   allegedly telling you these things, you were having --  
3   you were typing them out yourself?

4           A.    That is correct.

5           Q.    And you're saying that all this process took  
6   you just 45 minutes?

7           A.    I didn't have a -- I wasn't keeping track of  
8   how long it was. I can't tell you exactly it took an  
9   hour and 33 minutes and so and so. I just -- it's an  
10   approximate guess during the interview and --

11          Q.    So when Mr. Blaylock asked you, "How long did  
12   it take," then you should have said, "I don't know;" is  
13   that correct?

14          A.    That's correct.

15          Q.    Not 45 minutes?

16          A.    Exactly.

17          Q.    Do you know whether or not Ruben Gutierrez  
18   wears glasses or contact lenses?

19          A.    No, I don't.

20          Q.    You don't -- you have no idea; is that correct?

21          A.    I don't have any idea.

22          Q.    Okay. And when you picked him up from his  
23   house after you executed that arrest warrant, he did not  
24   have any glasses; is that correct?

25          A.    I don't recall if he did or he didn't.

1 Q. Well, you took a picture of him, did you not?

2 A. Yes, I did.

3 Q. And that picture was introduced into evidence;  
4 is that correct?

5 A. That is correct.

6 Q. Did he have any glasses on when you took that  
7 picture?

8 A. No.

9 Q. And you don't know whether or not he was  
10 wearing contact lenses on that day; is that correct?

11 A. That is correct.

12 Q. And you don't know whether or not he can see or  
13 how far -- how close he needs to have a paper to be able  
14 to see, do you?

15 A. That is correct.

16 Q. And isn't it correct that his wife, Angie  
17 Gutierrez, had to bring him some contact lenses later on  
18 after you had questioned him two times?

19 A. I don't recall if she did.

20 Q. Okay. So you're not saying it didn't happen;  
21 you're just saying you don't remember whether or not --

22 A. I didn't deal with her on that occasion that  
23 she brought in contact lenses.

24 Q. But what you do know is that he didn't have any  
25 glasses; is that correct?



1           A.    Eyeglasses, that is correct.

2           Q.    When you picked him up from his home on  
3   September the 13th of 1998, isn't it correct that he was  
4   taken just in his boxer shorts?

5           A.    I don't recall.

6           Q.    Well, what was the purpose of you having Angie  
7   Gutierrez take clothing to the Brownsville Police  
8   Department?

9           A.    I didn't have Angie Gutierrez take clothing to  
10   the police department.

11          Q.    Do you know who it was that did?

12          A.    No, I don't, sir.

13          Q.    But someone --

14          A.    Probably Detective Carrejo or another one of  
15   the investigators did.

16          Q.    You testified earlier that somebody -- that  
17   Angie Gutierrez took clothing to Ruben Gutierrez to the  
18   Brownsville Police Department; is that correct?

19          A.    Brought clothing to the investigators of the  
20   Brownsville Police Department.

21          Q.    Okay. That was your testimony?

22          A.    That is correct.

23          Q.    You testified that you also obtained on  
24   September the 8th of 1998 a consent to search the  
25   Gutierrez residence; is that correct?

1           A.    That is correct.

2           Q.    And that was a consent to search Ruben  
3 Gutierrez' and Angie Gutierrez' home; is that correct?

4           A.    That is correct.

5           Q.    And that is marked as State's Exhibit  
6 Number 36.

7           A.    That is correct.

8           Q.    And isn't it correct that after you searched  
9 that residence, you found absolutely nothing?

10          A.    That is correct.

11          Q.    But when you searched the residences of Rene  
12 Garcia and Pedro Gracia, you, in fact, found money at  
13 their homes; is that correct?

14          A.    That is correct.

15          Q.    And you never found any money on Ruben  
16 Gutierrez or at his residence; is that true?

17          A.    That is correct.

18          Q.    You also testified that you took some clothing  
19 that belonged to Ruben Gutierrez; is that true?

20          A.    Took some clothing?

21          Q.    Some clothing. You went and picked up some  
22 clothing from his residence?

23          A.    No, I didn't.

24          Q.    Okay. Did anybody from the Brownsville Police  
25 Department pick up any clothing that belonged to Ruben

1 Gutierrez?

2 A. I'm unaware if they did.

3 Q. Okay. Well, you testified earlier that some  
4 property was picked up, that it was apparently tested by  
5 the Department of Public Safety; is that correct?

6 A. That is correct.

7 Q. And the purpose of sending it to the Texas  
8 Department of Public Safety is to determine whether or  
9 not there was any blood stains on that clothing; is that  
10 correct?

11 A. That is correct.

12 Q. And all the property that was given to you that  
13 belonged to Ruben Gutierrez, all of it came back as  
14 negative; is that correct?

15 A. That is correct.

16 Q. Meaning that there was absolutely no blood  
17 located on that clothing?

18 A. That is correct.

19 Q. And isn't it correct that even though clothing  
20 has been washed, even if it has been washed several  
21 times, that blood stains cannot be removed? Do you know  
22 that?

23 A. I didn't know that.

24 Q. Now, let me go back to September the 9th of  
25 1998. That was the first time that you actually talked

1 to Ruben Gutierrez; is that correct?

2 A. That is correct.

3 Q. And that was the day that Angie Gutierrez and  
4 Norma Gutierrez' mother went with him to the Brownsville  
5 Police Department; is that true?

6 A. I'm not sure if they did or didn't.

7 Q. When was the first time that you talked to  
8 Ruben Gutierrez?

9 A. I'm sorry. Yes, on the 9th it was. I'm  
10 getting it mistaken with the 8th.

11 Q. We're talking about September the 9th of 1998.

12 A. That is correct.

13 Q. Angie Gutierrez went and so did Norma  
14 Gutierrez, his mother; is that correct?

15 A. That is correct.

16 Q. They took him so he could talk to you; is that  
17 true?

18 A. That is correct.

19 Q. And isn't it correct that you took Ruben  
20 Gutierrez into your office?

21 A. That is correct.

22 Q. And isn't it correct that after you started  
23 questioning him, that he decided not to talk to you  
24 anymore?

25 A. That is correct.

1           Q.    And isn't it correct that you did not allow  
2 Ruben Gutierrez to leave until after you spoke to Angie  
3 Gutierrez?

4           A.    He was allowed to remain seated in the lobby  
5 while I spoke with Ms. Gutierrez.

6           Q.    So your testimony is that he was at the lobby  
7 while you were --

8           A.    In the C.I.D. lobby upstairs, yes, he was.

9           Q.    Did you talk to Angie Gutierrez?

10          A.    Yes, I did.

11          Q.    So what you're saying is that you took Ruben  
12 Gutierrez out to the lobby and then you brought her in?

13          A.    There's a lobby before you get to our bays  
14 where the cubicles are located. There's some seats  
15 there; and he was allowed to sit there and remain there  
16 while I spoke to Ms. Gutierrez.

17          Q.    So you're not talking about the front lobby --

18          A.    No, sir.

19          Q.    -- is that correct?

20          A.    The lobby upstairs.

21          Q.    You're not talking about the lobby that's  
22 accessible just to anybody that goes into the Brownsville  
23 Police Department; is that true?

24          A.    That is correct.

25          Q.    In other words, you had him sit there in the

1 lobby inside of the Brownsville Police Department?

2 A. Yes, sir.

3 Q. And you had him sit there until you finished  
4 talking to Angie Gutierrez; is that correct?

5 A. No, it's not correct.

6 Q. Isn't it true that you threatened Ruben  
7 Gutierrez that if he didn't talk to you, you were going  
8 to arrest his wife?

9 A. No, that is not correct.

10 Q. And isn't it correct that you also threatened  
11 to get the child protective services department to take  
12 away his kids if he did not give you a statement?

13 A. No, sir.

14 Q. Earlier you testified that you saw  
15 Officer David Garcia hitting Avel Cuellar; is that  
16 correct?

17 A. That is correct.

18 Q. Is it normal and standard procedure with the  
19 Brownsville Police Department to be hitting people that  
20 they're questioning?

21 A. No, sir.

22 Q. But on that day, on September the 7th when you  
23 questioned -- when Detective Garcia was questioning Avel  
24 Cuellar, he was, in fact, hitting him on the head; is  
25 that correct?

1 A. Yes, he did.

2 Q. And he was hitting him on his head when he was  
3 attempting to get a statement from Avel Cuellar; is that  
4 correct?

5 A. It was a verbal conversation, yes, it was.

6 Q. But the purpose of that verbal conversation was  
7 to get a statement down in writing; is that correct?

8 A. No.' He was too intoxicated to be able to  
9 provide a written statement.

10 Q. But he was talking to him nonetheless; is that  
11 correct?

12 A. That is correct.

13 Q. And he was talking to him about Escolastica  
14 Harrison; is that correct?

15 A. That is correct.

16 Q. So he was attempting to get information from  
17 Avel Cuellar even though Detective Garcia knew that he  
18 was intoxicated --

19 A. That is correct.

20 Q. -- is that correct?

21 A. Yes, sir.

22 Q. And even though he knew he was intoxicated, he  
23 was still hitting him on the head trying to get  
24 information from him; is that true?

25 A. Yes, sir.

1 Q. Were you the only officer that was present when  
2 this was happening?

3 A. I believe so.

4 Q. Now, you testified that Escolastica Harrison  
5 had about \$571,000 in those suitcases; is that correct?

6 A. That is correct.

7 Q. And you testified that the money was kept in  
8 \$100 bills; is that correct?

9 A. I never said \$100 bills.

10 Q. Okay. Do you know in what denominations that  
11 money was kept?

12 A. Yes, sir. They were \$100 bills and I believe  
13 \$20 bills also.

14 Q. And that was only the two, the toolbox and the  
15 suitcase in which she kept that money; is that correct?

16 A. The ones that we knew of that we recovered,  
17 yes.

18 Q. So you only recovered the suitcase and the  
19 toolbox; is that correct?

20 A. That is correct.

21 Q. But you don't know for a fact that that is the  
22 amount of money that she, in fact, had in that suitcase  
23 or in that toolbox; is that correct?

24 A. That is correct.

25 Q. You don't know how well she kept that ledger



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1 that you were testifying about earlier; is that correct?

2 A. That is correct.

3 Q. You don't know whether she maybe put some money  
4 in a bank somewhere or whether she gave some money away;  
5 is that correct?

6 A. That is correct.

7 Q. So when you're testifying about an amount of  
8 571,000, you don't have any idea whether or not that is  
9 the amount of money that she had in her home?

10 A. That is correct.

11 Q. You're just guessing?

12 A. I'm not guessing. I'm taking it from the  
13 ledger itself where she has it dated and the dollar  
14 amounts that she has.

15 Q. But you wouldn't know whether or not, in fact,  
16 she had that amount --

17 A. That is correct.

18 Q. -- in her home; is that correct?

19 A. That is correct.

20 Q. And isn't it correct that when Ruben Gutierrez  
21 was arrested, he was charged with the murder of  
22 Escolastica Harrison as well as a burglary of a  
23 habitation; is that correct?

24 A. No, sir. He was just charged with capital  
25 murder.

1 Q. Okay. Well, in order to have capital murder,  
2 you have to have a murder and something else; is that  
3 correct?

4 A. That is correct.

5 Q. And the charge that you brought was that of  
6 burglary of habitation; is that correct?

7 A. No, sir. It was a charge of robbery.

8 Q. Are you sure?

9 A. Yes, sir.

10 Q. Okay. In the warrant that you obtained, isn't  
11 it correct that you put on there burglary of a  
12 habitation?

13 A. I don't recall what it was.

14 Q. Did you obtain that warrant?

15 A. I didn't get it. I didn't --

16 Q. Do you know who it was?

17 THE COURT: Just a minute. Just a minute.  
18 Let him finish answering the question before you ask him  
19 another question.

20 Q. (BY MR. REYES) Do you know who it was?

21 A. No, I don't.

22 Q. Now, you stated -- testified earlier that  
23 apparently Escolastica Harrison -- Escolastica Harrison's  
24 home had been ransacked; is that correct?

25 A. It appeared to have been ransacked.

1 Q. But you hadn't been inside that home before  
2 September the 6th of 1998; is that true?

3 A. That is correct.

4 Q. So you don't know whether or not she kept her  
5 home in that condition; is that true?

6 A. It was in poor condition when we got there. So  
7 I wouldn't --

8 Q. That wasn't my question. My question was, you  
9 don't know in what condition she kept that home before  
10 September the 6th of 1998 --

11 A. That is correct.

12 Q. -- is that correct?

13 A. Yes, sir.

14 Q. You don't know whether or not she kept it in  
15 the condition in which you found it; is that true?

16 A. That is correct.

17 Q. So when you talk about his home -- her home  
18 having been ransacked, you don't know that for a fact; is  
19 that correct?

20 A. That is correct.

21 Q. You're just guessing?

22 A. I asked the family members.

23 Q. You said that during your investigation you  
24 talked to Edilia Vento; is that true?

25 A. That is correct.

1 Q. And isn't it correct that you found out through  
2 your investigation that she, in fact, found that Avel  
3 Cuellar was acting weird on that night of September the  
4 5th of 1998?

5 A. That is correct.

6 Q. She was -- he was acting differently; is that  
7 correct?

8 A. That's correct.

9 Q. And isn't it correct that the information that  
10 you had up to that point when you started investigating  
11 this case was that there was, in fact, some blood stains  
12 that were found in Avel Cuellar's restroom?

13 A. That is correct, what appeared to be.

14 Q. What appeared to be blood on his toilet; is  
15 that correct?

16 A. On his toilet cover, the reservoir cover.

17 Q. And that was in his restroom; is that correct?

18 A. That is correct.

19 Q. In his portion of the residence?

20 A. That is correct.

21 Q. And you also had information throughout your  
22 investigation that Escolastica Harrison had -- was, in  
23 fact, afraid of Avel Cuellar; is that true?

24 A. I didn't have that information at all.

25 Q. You never obtained that information from your

1 investigation?

2 A. No, I didn't.

3 Q. And isn't it also correct that the family  
4 members, the Cuellar's or the Harrison's, actually called  
5 the Brownsville Police Department to have Avel Cuellar  
6 picked up from the funeral home because he was causing a  
7 disturbance?

8 A. That is correct.

9 Q. And do you recall what date that was?

10 A. I believe it was on the 7th or the 8th. I'm  
11 not sure which day it was.

12 Q. One of those days?

13 A. Yes, sir, when he was picked up and a statement  
14 was obtained.

15 Q. And isn't it correct that he was intoxicated on  
16 that day?

17 A. No, he wasn't.

18 Q. He was not?

19 A. No, he was not.

20 Q. So he was sober, but yet he was causing  
21 problems at the funeral home; is that correct?

22 A. That's what the family members said. That's  
23 correct.

24 Q. So you went and picked him up based on the  
25 information that you had obtained from the family; is

1 that true?

2 A. That is correct.

3 Q. On September the 9th of 1998, how long was  
4 Ruben Gutierrez at the Brownsville Police Department?

5 A. I don't know.

6 Q. What time did he arrive?

7 A. At approximately 3:40.

8 Q. And what time did he leave?

9 A. I don't know.

10 Q. So you have no idea whether you kept him there  
11 one hour? You don't have an idea as to whether maybe you  
12 kept him there for three hours?

13 A. No, sir. It wasn't that long.

14 Q. So it was anywhere between maybe one hour to  
15 three hours?

16 A. I would say it wasn't that long, sir.

17 Q. Okay. Well, earlier you stated that you don't  
18 know how long he was there.

19 A. That is correct.

20 Q. Either you know or you don't.

21 A. That is correct.

22 Q. So he might have been there anywhere between  
23 one hour to three hours; is that correct?

24 A. No, it's not correct.

25 Q. One hour to two hours?

1           A.    No, sir.

2           Q.    One hour?

3           A.    Maybe an hour, if that much.

4           Q.    But you don't know?

5           A.    That's correct.

6           Q.    What time did you start working on September

7 the 9th of 1998?

8           A.    8:00 in the morning, I think. I'm not -- I

9 don't recall.

10          Q.    And what time does your shift end?

11          A.    It all depends what time I start.

12          Q.    My question was, what time does your shift end

13 if you knew what time you started on that day?

14          A.    Well, if I started at eight, the shift ends at

15 four. If I started at nine, the shift ends at five.

16          Q.    Okay. And you testified that you started at

17 8:00 that morning; is that correct?

18          A.    I don't recall exactly what my schedule was

19 that day, sir.

20          Q.    Okay. Do you have it anywhere in your report?

21          A.    No, I don't.

22          Q.    And not necessarily because let's say, for

23 example, you go in at 8:00 in the morning are you going

24 to leave exactly at four; is that correct?

25          A.    That is correct.

1           Q.    If you're interviewing somebody or  
2   interrogating somebody, you would stay longer; is that  
3   true?

4           A.    That is correct.

5           Q.    Isn't it correct that Ruben Gutierrez was not  
6   taken before a magistrate until September the 14th of  
7   1998?

8           A.    I'm unaware, sir.

9           Q.    You don't know?

10          A.    I don't know.

11          Q.    You have no idea? Were you the investigator in  
12   charge of this investigation?

13          A.    No, I wasn't.

14          Q.    It was Detective Gilberto Garcia; is that true?

15          A.    That is correct.

16          Q.    Now you testified also that you had received  
17   information from Ruben that he had been with his cousin,  
18   Chuco; is that true?

19          A.    That is correct.

20          Q.    What is his true name?

21          A.    Jose Miguel Maldonado, of that sort. I'm not  
22   sure.

23          Q.    And isn't it correct that you had learned  
24   through your investigation that he had been driving  
25   around in a Corvette on that Saturday night; is that



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1 true?

2 A. That he had been?

3 Q. Yes, that he had been.

4 A. No, that he had not been.

5 Q. Okay. Is that the information that you had  
6 obtained through --

7 A. That's correct.

8 Q. -- your investigation?

9 THE COURT: Just a minute. Let him finish  
10 asking the question before you answer.

11 Go ahead.

12 MR. REYES: Thank you, Your Honor.

13 Q. (BY MR. REYES) So, you have no information  
14 that this Mr. Maldonado, in fact, gave a statement saying  
15 that he was driving around in his Corvette?

16 A. That is correct, but that Ruben was not with  
17 him.

18 Q. Well, earlier you testified that he was not  
19 driving around in a Corvette, but he, in fact, was; is  
20 that true?

21 A. That's what he stated he had done.

22 Q. So my question was, you learned from your  
23 investigation that this person, Mr. Maldonado, Jose  
24 Maldonado, was actually driving around in his Corvette --

25 A. Yes.

1 Q. -- on that Saturday night; is that true?

2 A. Yes, sir.

3 Q. And you had learned from Ruben Gutierrez or he  
4 told you on September the 9th that he, in fact, was with  
5 his cousin, Chuco or Jose Maldonado, on Saturday night in  
6 his Corvette; is that true?

7 A. That's what he stated.

8 Q. You testified earlier that you went and picked  
9 up Rene Garcia on a warrant; is that true?

10 A. That is correct.

11 Q. And you had received information from Crime  
12 Stopper's that he was spending large amounts of money?

13 A. That is correct.

14 Q. So this -- you having picked up Mr. Garcia on a  
15 warrant was simply a pretext to question him; is that  
16 correct?

17 A. Not a pretext. He had an outstanding warrant.  
18 We serve warrants.

19 Q. You could have gone to pick him up without  
20 serving the warrant; is that correct?

21 A. That's correct.

22 Q. You could have gone to ask him to see if he  
23 wanted to give you a statement; is that true?

24 A. Not when he has an outstanding warrant for him.  
25 He gets arrested.

1           Q.    You could have gone to pick him up to question  
2 him without serving a warrant; is that correct?

3           A.    That is correct.

4           Q.    Just like you could anybody else; is that true?

5           A.    That is correct.

6           Q.    But in this situation, what you did is you went  
7 and served a warrant, and then you brought him to the  
8 police station, and then you started questioning him; is  
9 that correct?

10          A.    That is correct.

11          Q.    As a matter of fact, he not only refused to  
12 talk to you once, but he refused to talk to you twice.  
13 It was not until the third time after you, from the  
14 Brownsville Police Department, continued to try and  
15 question him that he actually gave you some information;  
16 is that true?

17          A.    That's incorrect -- incorrect.

18          Q.    You testified, when Mr. Blaylock was asking  
19 you, you talked to him once; he refused to give you a  
20 statement. Is that true?

21          A.    We talked -- I interviewed him, all right? And  
22 then he was taken downstairs and booked in into the jail  
23 where he remained overnight.

24          Q.    So you talked to him once; is that correct?

25          A.    That is correct.

1 Q. And he didn't give you any information?

2 A. That is correct.

3 Q. And then he was booked in; is that true?

4 A. That is correct.

5 Q. And he was booked in on those warrants; is that  
6 correct?

7 A. That warrant, yes, he was.

8 Q. And isn't it then after he spent the night in  
9 the jail, then somebody from the Brownsville Police  
10 Department went to question him again? Is that true?

11 A. That is correct.

12 Q. And he did not give you any information?

13 A. That's -- he did provide with a statement.

14 Q. Was that the second time?

15 A. Yes, sir.

16 Q. To your knowledge, had anybody else questioned  
17 him prior to that second time?

18 A. Just Detective Pineda and myself.

19 Q. And that was before he was booked in; is that  
20 true?

21 A. That is correct.

22 Q. So the fact -- so he had, in fact, refused to  
23 give you any information, but then you went back and you  
24 questioned him a second time; is that true?

25 A. That is correct.

1 Q. You testified that you went to another  
2 residence after you talked to Rene Garcia; is that true?

3 A. That is correct.

4 Q. Okay. And whose residence did you go to?

5 A. Pedro Gracia's residence.

6 Q. And you testified that you found nothing at his  
7 residence?

8 A. That is correct.

9 Q. Now, isn't it also correct that you, in fact,  
10 did take some clothing that belonged to Avel Cuellar?

11 A. I took some clothing?

12 Q. Did anybody from the Brownsville Police  
13 Department pick up any clothing that belonged to Avel  
14 Cuellar?

15 A. I believe so.

16 Q. And isn't it correct that that clothing was  
17 sent to the Department of Public Safety in McAllen for  
18 testing?

19 A. That is correct.

20 Q. And isn't it correct that the laboratory, in  
21 fact, found blood that belonged to Escolastica Harrison  
22 on Avel Cuellar's clothing?

23 A. I'm not sure what the results were on his  
24 clothes.

25 Q. Have you reviewed the report from the

1 Department of Public Safety?

2 A. Not on Avel's clothes, no, sir.

3 Q. You testified that you reviewed the report with  
4 respect to Ruben Gutierrez's clothing; is that correct?

5 A. Yes, I saw it, sir.

6 Q. And that's how you know that, in fact, no blood  
7 was found on his clothing; is that true?

8 A. That is correct.

9 Q. And isn't it correct that the information with  
10 respect to Avel Cuellar is on that same document?

11 A. I didn't see it, sir.

12 Q. And who was the investigator in charge of  
13 obtaining the results from the Department of Public  
14 Safety?

15 A. I believe those results were mailed to the  
16 police department. And when I saw them, I had brought  
17 them over to, I believe, Ms. Fischer for her to have them  
18 for the case file.

19 Q. And isn't it a fact that this report was sent  
20 directly to you?

21 A. To me?

22 Q. Yes.

23 A. I don't know if it was.

24 MR. REYES: May I approach the witness,  
25 Your Honor?

1 THE COURT: You may.

2 Q. (BY MR. REYES) I'm going to show you what  
3 I've marked as Defendant's Exhibit Number 1 for  
4 identification purposes only. Do you recognize that?

5 A. Yes, sir.

6 Q. Okay. Is that document what has been marked as  
7 Defendant's Exhibit Number 1, is that a report from the  
8 Department of Public Safety?

9 A. Yes, sir.

10 Q. And isn't it, in fact, addressed to you?

11 A. Yes, sir.

12 Q. And isn't it correct that the information with  
13 respect to Avel Cuellar's clothing is also on that  
14 document?

15 A. Yes, it is.

16 Q. And isn't it correct that they found some blood  
17 on Avel Cuellar's clothing?

18 A. That is correct.

19 Q. And after you received this report, you  
20 testified that you sent it over to the District  
21 Attorney's Office; is that true?

22 A. That report was placed on my desk and I brought  
23 it over, yes, sir.

24 Q. Did you on September the 9th of 1998 ever take  
25 Ruben Gutierrez before a magistrate, before a judge?

1           A.    No, I didn't.

2           Q.    And you are aware that you are required to take  
3 a person before a judge so they can read that person  
4 their rights? You've heard of that?

5           A.    Not an adult.

6           Q.    What you're saying is that you're never  
7 required to take somebody before a magistrate?

8           A.    That's correct.

9           Q.    That's your understanding of the law,  
10 Officer Flores?

11          A.    That's my understanding from the Warning and  
12 Waiver of Rights that we read to each person that we  
13 interview.

14          Q.    Let me see if I understand you correctly.  
15 You're saying that because somebody is an adult, you're  
16 never required to take them before a magistrate?

17          A.    I'm not sure about never. I didn't take him  
18 that day.

19          Q.    Well, I mean, in other investigations, do you  
20 ever take any adults before a magistrate?

21          A.    No, sir.

22                   MR. BLAYLOCK: I object, Judge. This is  
23 totally misleading. I ask the Court to instruct the jury  
24 on the law at this time.

25                   THE COURT: They'll be instructed later



1 on. Let's move on.

2 MR. REYES: Thank you, Your Honor.

3 Q. (BY MR. REYES) So your testimony is that you  
4 never took Ruben Gutierrez before a magistrate?

5 A. That is correct.

6 THE COURT: All right. Let's go ahead and  
7 take a break at this time. Ladies and gentlemen of the  
8 jury, remember the instructions I've given you not to  
9 discuss this case among yourselves or with anyone else,  
10 not to form or express any opinions. We'll take about a  
11 15 minute break.

12 (Recess from 3:20 p.m. to 3:40 p.m.)

13 THE COURT: All right. Bring in the jury.

14 (Jury brought into the courtroom)

15 THE COURT: All right. You may be seated.  
16 Let's proceed.

17 MR. REYES: Thank you, Judge.

18 CROSS-EXAMINATION CONTINUED

19 BY MR. REYES:

20 Q. Detective Flores, when we left off before the  
21 break I was talking to you about -- about Ms. Cuellar's  
22 home. Isn't it correct that before you arrived at the  
23 scene, in fact the Cuellar family had already gone  
24 through the house looking for the money?

25 A. That is correct.

1           Q.    And do you know how long they had been looking  
2 for that money?

3           A.    I don't know.

4           Q.    Do you know how long they had been inside that  
5 house?

6           A.    No, I don't.

7           Q.    And isn't it a fact that the Cuellar family, in  
8 fact, knew some of the hiding places for that money?

9           A.    That is correct.

10          Q.    And isn't it a fact that they actually went  
11 into those hiding places looking for that money?

12          A.    They located it. I don't know if they went in.

13          Q.    They located those hiding places --

14          A.    That is correct.

15          Q.    -- is that correct? So you don't know whether  
16 or not the Cuellar family might have found some money and  
17 not let you all know; is that correct?

18          A.    That is correct.

19          Q.    That is a possibility?

20          A.    Possibility.

21          Q.    We were talking to you about Ms. Edilia Vento.  
22 She is one of the residents there at the trailer park; is  
23 that correct?

24          A.    That is correct.

25          Q.    And the information that you had obtained

1 through your investigation was that she had -- was that  
2 Avel Cuellar was, in fact, acting differently or weird  
3 before Escolastica Harrison's body was found; is that  
4 correct?

5 A. I don't know if it was before or after that she  
6 noticed it, the body was found.

7 Q. Well, didn't you -- weren't you able to  
8 determine that she's the one that instructed Avel Cuellar  
9 to call for Escolastica's -- for Escolastica Harrison  
10 over the P.A. system?

11 A. If it's in her statement, yes, sir.

12 Q. Right? So if, in fact, Avel Cuellar was  
13 calling Escolastica Harrison's name through the P.A.  
14 system, then we can assume that he had not yet located  
15 her body?

16 A. That is correct.

17 Q. You have the supplemental report that you gave;  
18 is that correct?

19 A. Yes, sir.

20 Q. How many pages is it?

21 A. How many pages what?

22 Q. How many pages does your report consist of?

23 A. Six and three/quarters pages.

24 MR. REYES: May I approach the witness,  
25 Your Honor?

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1 THE COURT: You may.

2 Q. (BY MR. REYES) I'm going to ask you to look  
3 at page number 5 of your report.

4 A. What, sir?

5 Q. Number 5. This is page 5, Officer. I want you  
6 to read this paragraph to yourself.

7 A. Which one?

8 Q. It starts right there to right here.

9 A. (Witness complies).

10 Q. Did you read it?

11 A. Yes, sir.

12 Q. Isn't it correct that you had obtained a  
13 warrant for a burglary of a habitation for Ruben  
14 Gutierrez?

15 A. Yes, sir.

16 Q. You also had obtained a warrant for burglary of  
17 a habitation of Rene Garcia; is that correct?

18 A. That is correct.

19 Q. This morning when you testified, you said that  
20 you did not find any money other than at Pedro Gracia's  
21 home; is that correct?

22 A. Pedro and Rene Garcia's home.

23 Q. Well, my question was, this morning when you  
24 testified, you said that the only place that you found  
25 money was at Rene Garcia's home. And then when we came

1 back this afternoon, then you added that you also found  
2 some money at Pedro Gracia's home.

3 Did you talk to the D.A. or Mr. Blaylock  
4 or Ms. Fischer throughout lunch?

5 A. No, sir.

6 Q. Did you review your report?

7 A. No, sir.

8 Q. So how is it that then you remember later on  
9 this -- in the afternoon that you had also found some  
10 money at Pedro Gracia's home?

11 A. In the morning we were talking about Rene  
12 Garcia and the money that was found at his residence. In  
13 the afternoon the name of Pedro Gracia was brought up and  
14 the money located at Pedro Gracia's residence was brought  
15 up, sir.

16 Q. So the only two places that you found money  
17 were at Pedro Gracia's home and Rene Garcia's home; is  
18 that correct?

19 A. And also the Franco residence.

20 Q. At the Franco residence. And they're related  
21 to whom?

22 A. Rene Garcia.

23 Q. But you never found money at Ruben Gutierrez'  
24 home; is that correct?

25 A. That is correct.

1 Q. You never found any money on his person; is  
2 that correct?

3 A. That is correct.

4 Q. And isn't it correct that Mr. Rene Garcia's  
5 family actually knew or had some money, but yet after you  
6 talked to them, they didn't even return it to you; is  
7 that correct?

8 A. That is correct.

9 Q. It wasn't until later you persisted on  
10 questioning them that they returned that money; is that  
11 correct?

12 A. That is correct.

13 Q. When you were attempting to obtain a statement  
14 from Ruben Gutierrez, you told him that the other -- that  
15 Pedro Gracia and Ruben -- Rene Garcia had already given  
16 statements; is that correct?

17 A. That is correct.

18 Q. And this was before you started the  
19 interrogation; is that correct?

20 A. That was during the interrogation.

21 Q. You also had information that Avel Cuellar had,  
22 in fact, stole about 30 or \$40,000 from Escolastica  
23 Harrison; is that true?

24 A. No, it's not.

25 Q. You didn't have that information?

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1           A.     Ruben provided it to us.

2           Q.     Okay. Did you do anything with that  
3 information, Officer?

4           A.     No, we didn't.

5           Q.     You stated that on September the 13th of 1998  
6 Ruben Gutierrez took you to where some of this property  
7 was found; is that correct?

8           A.     That is correct.

9           Q.     And you also testified that he was -- isn't it  
10 a fact that he did not volunteer to take you there; that  
11 you put him into that police car and you told him to take  
12 you where that property was; is that correct?

13          A.     No, that's not correct.

14          Q.     And isn't it correct that he was leading you  
15 just to places where Pedro Gracia had told him some of  
16 this property had been thrown; is that correct?

17          A.     That's correct.

18          Q.     So the information that he was giving you was  
19 what he was told by Pedro Gracia; is that true?

20          A.     That is correct.

21          Q.     Did you at all during your investigation locate  
22 a silver suitcase?

23          A.     Silver?

24          Q.     A silver colored suitcase, did you locate one  
25 during your investigation?

1           A.    No, I didn't.

2           Q.    You testified that the suitcases that you found  
3 and the toolbox were photographed before anybody touched  
4 them; is that true?

5           A.    That is correct.

6           Q.    You don't know whether or not any individuals  
7 before --

8                       MR. REYES: I'll withdraw that question.

9           Q.    (BY MR. REYES) Let me ask you this. Did you  
10 have that suitcase and that toolbox at all sent to the  
11 Department of Public Safety for them to attempt to lift  
12 fingerprints from?

13          A.    I don't know if they did or didn't.

14          Q.    Did you do it?

15          A.    No, I didn't.

16          Q.    Who would be in charge of sending those to the  
17 Department of Public Safety?

18          A.    Crime scene investigator Detective Juan  
19 Hernandez.

20          Q.    Before September the 6th of 1998 you had never  
21 met Escolastica Harrison; is that true?

22          A.    No, I had -- yes, I had met her.

23          Q.    But were you familiar with her handwriting?

24          A.    No, I wasn't.

25          Q.    So when you're talking about that ledger which



1 is in front of you, you don't know whether or not that is  
2 her handwriting; is that correct?

3 A. That is correct.

4 Q. You don't know whether or not anybody --  
5 whether or not anybody made any additions --

6 A. That is correct.

7 Q. -- to that log; is that true?

8 A. Yes, sir.

9 Q. Those post cards or index cards that were  
10 admitted as evidence, you don't know whether or not  
11 whether somebody other than Escolastica Harrison prepared  
12 those; is that correct?

13 A. That is correct.

14 MR. REYES: I'll pass the witness, Your  
15 Honor.

16 MR. BLAYLOCK: I do have a few questions,  
17 Judge.

18 THE COURT: Go ahead.

19 **REDIRECT EXAMINATION**

20 **BY MR. BLAYLOCK:**

21 Q. Now, Detective Flores --

22 MR. BLAYLOCK: May I approach the witness,  
23 Judge?

24 THE COURT: You may.

25 Q. (BY MR. BLAYLOCK) Detective, about his

1 eyesight, do you think he's got any problems with his  
2 eyesight?

3 MR. REYES: I'm going to object, Your  
4 Honor. It calls for speculation.

5 MR. BLAYLOCK: He can comment on what his  
6 observations were.

7 THE COURT: Rephrase the question.

8 Q. (BY MR. BLAYLOCK) In your observations, did  
9 he appear to have any problem with his eyesight?

10 A. No, sir.

11 Q. Okay. In fact, let's look at State's Exhibit  
12 Number 43 and 37. He put his initials right down there  
13 each time, right?

14 A. Yes, sir.

15 Q. Did you have to guide his hand at all?

16 A. No, sir.

17 Q. He got every one of them right beside the  
18 number, didn't he?

19 A. Yes, sir.

20 Q. Okay. And that signature, did you guide his  
21 hand when he was signing it?

22 A. No, sir.

23 Q. He got that signature right on the line, didn't  
24 he?

25 MR. REYES: I'm going to object --

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1           A.    Yes, sir.

2                   MR. REYES:  -- to counsel leading his  
3 witness.

4                   THE COURT:  Don't lead your witness,  
5 counsel.

6           Q.    (BY MR. BLAYLOCK)  Let's look at State's  
7 Exhibit 43 now.  Same question, did you guide his hand  
8 when he put his initials on the paper?

9           A.    No, sir.

10          Q.    Okay.  But where are they?

11          A.    They're -- his signature is right on the line.  
12 The time and the date is also right on the line.

13          Q.    Okay.  He put the time and date up there?

14          A.    Yes, sir.

15          Q.    Let's look at State's Exhibit Number 44 and 45.  
16 Is it easy for a person who can't see well to put their  
17 initials right beside each one of those --

18                   MR. REYES:  I'm going to object, Your  
19 Honor.  It calls for speculation.

20                   THE COURT:  I'll permit him to answer.

21          Q.    (BY MR. BLAYLOCK)  Is it easy to stick your  
22 initials right beside every one of those numbers?

23          A.    Not really.

24          Q.    Okay.  But where did he put his initials?

25          A.    He put them next to each number that was

1 indicated to him as his rights were read to him.

2 Q. He got it right by number one?

3 A. Yes, sir.

4 Q. And number two?

5 A. Yes, sir.

6 Q. And number three?

7 A. Yes, sir.

8 Q. And number four?

9 A. Yes, sir.

10 Q. And number five?

11 A. Yes, sir.

12 Q. And then he put them at the end of every  
13 paragraph?

14 A. That is correct.

15 Q. Did you have to guide his hand to put it by any  
16 of those?

17 A. No, sir.

18 Q. What about his signature on that exhibit?

19 A. His signature is right on the line.

20 Q. Got it right on the line. Okay. Does that  
21 indicate to you that he had problems seeing?

22 A. No, sir.

23 Q. All right. And --

24 MR. BLAYLOCK: -- I'd like to republish 44  
25 and 45, Judge.

1 THE COURT: You may.

2 Q. (BY MR. BLAYLOCK) He knew his rights anyway,  
3 didn't he?

4 MR. REYES: I'm going to object, Your  
5 Honor. It calls for speculation.

6 THE COURT: What was the question?

7 Q. (BY MR. BLAYLOCK) He knew his rights from  
8 before, didn't he?

9 THE COURT: It's overruled.

10 A. Yes, sir.

11 Q. (BY MR. BLAYLOCK) In fact, he had asserted  
12 his rights to terminate the interview?

13 A. That is correct.

14 Q. So he knew how to terminate an interview?

15 A. Yes, sir.

16 Q. But he didn't terminate this one?

17 A. No, sir.

18 Q. In fact, he put all of his initials on there?

19 A. Yes, sir.

20 Q. I'm going to show you what's been marked as  
21 State's Exhibit 61 and 60. Do these look the same as you  
22 saw it that day?

23 A. Yes, sir.

24 MR. BLAYLOCK: I'm showing defense 61 and  
25 60. I move to admit 61 and 60.

1                   MR. REYES: Judge, we would just reurge  
2 all of our objections, but with respect to State's  
3 Exhibit 60, we would object as to relevance.

4                   MR. BLAYLOCK: For the record, Judge, just  
5 reurging previous objections, it doesn't put me on notice  
6 what to respond to.

7                   MR. REYES: The objections would be that  
8 this -- the search was illegal, he was taken by force  
9 without his consent to the scene. And State's Exhibit  
10 Number 60 is irrelevant, Judge.

11                   MR. BLAYLOCK: We'll show the relevance.

12                   THE COURT: All right. It'll be  
13 overruled. Sixty and 61 will be admitted into evidence.

14                   **(State's Exhibit Numbers 60 and 61**  
15                   **admitted)**

16                   Q. (BY MR. BLAYLOCK) Okay. Before we go on,  
17 let's clear up the eye problem. Based on your experience  
18 and observations, did he have any problem with his eyes?

19                   A. No, he didn't.

20                   Q. Okay. Now let's look at State's Exhibit 60 and  
21 61. Tell the jury -- hold it up so they can see -- what  
22 number 60 is.

23                   A. Sixty is the location inside of the pen, that  
24 animal pen that we located behind the residence on  
25 California Road.

1 Q. Okay. And tell them what 61 is.

2 A. Sixty-one is a photo of the canal where the  
3 toolbox was located at.

4 Q. And on Number 60, is -- what is this hole?  
5 There's a big hole there. What did you get out of that  
6 hole?

7 A. We recovered a large sum of money from that  
8 hole.

9 Q. And that in fact -- is that the 50 -- how much  
10 thousand?

11 A. \$56,000.

12 Q. Okay. Rene Garcia's?

13 A. Yes, sir.

14 Q. He told you where it was?

15 A. Yes, sir.

16 MR. BLAYLOCK: If I could finish off my  
17 exhibit, Judge.

18 Q. (BY MR. BLAYLOCK) All right. Can you see  
19 this from where you are?

20 A. No, sir.

21 Q. Just for the record, on State's Exhibit 59,  
22 have I placed the corresponding photos where they should  
23 be?

24 A. Yes, sir.

25 Q. Okay. Go ahead and sit down.

1           A.     (Witness complies).

2           Q.     Now, you just told -- when he was telling you  
3 where you all found the money, you told him that you  
4 found some at Rene's and some at Pedro's house, right?

5           A.     Yes, sir.

6           Q.     And he left out the part about the Campos,  
7 Campos' money, Juan Pablo Campos. Did you determine how  
8 Juan Pablo Campos is related to Ruben Gutierrez?

9           A.     Yes, sir.

10          Q.     How is he related?

11          A.     Ruben Gutierrez' wife is the cousin of Juan  
12 Pablo Campos' wife.

13          Q.     Okay. And you had mentioned in your report in  
14 that same paragraph he had you read, did Ms. Gutierrez  
15 tell you whose vehicle they were driving when he went out  
16 that day?

17          A.     Yes, sir.

18                   MR. REYES: I'm going to object, Your  
19 Honor, as to relevancy.

20                   THE COURT: Relevancy? Overruled.

21          Q.     (BY MR. BLAYLOCK) Tell the jury, whose  
22 vehicle was it?

23          A.     It belonged to --

24                   MR. REYES: I'm going to object, Your  
25 Honor, also as to -- may we approach, Your Honor? May we



1 approach?

2 (Off the record discussion at the bench)

3 THE COURT: I'll sustain to hearsay.

4 Q. (BY MR. BLAYLOCK) Did you determine if -- did  
5 you determine if Ruben Gutierrez had paid Juan Pablo  
6 Campos for the Bronco?

7 MR. REYES: I'm going to object, Your  
8 Honor. It calls for hearsay.

9 THE COURT: Overruled.

10 A. Yes, sir.

11 Q. (BY MR. BLAYLOCK) Okay. And about how much  
12 had he paid him?

13 A. \$6,000 in cash.

14 Q. Okay. And then the money you got from  
15 Mr. Campos, you've already testified that that money came  
16 from Ruben Gutierrez?

17 A. That is correct.

18 Q. All right. And how much was that?

19 A. 49,000 in one single lump sum; I believe 2,000  
20 in another sum; and then 1,700, I believe they were all  
21 in \$100 bills, in another sum.

22 Q. All right. And these statements that you got  
23 from Ruben, when you brought him again, did you tell him  
24 that you didn't need a statement from him?

25 A. That is correct.

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1           Q.    And just so the jury will know, do you give  
2 everybody you arrest a chance to tell their side of the  
3 story?

4           A.    Yes, sir.

5           Q.    Is that standard?

6           A.    Yes, sir.

7           Q.    And why do you do that?

8           A.    To allow for them to say what exactly what  
9 happened and their version of what happened.

10          Q.    As far as Miranda goes, the Miranda opinion  
11 tells police officers to --

12                   MR. REYES:  I'm going to object, Your  
13 Honor.  It calls for a legal conclusion.

14                   THE COURT:  Sustained.

15                   MR. BLAYLOCK:  I'm just going to ask him  
16 if he knows, Judge.

17                   THE COURT:  Well, ask him.

18          Q.    (BY MR. BLAYLOCK)  Are you familiar with the  
19 Miranda opinion?

20          A.    Yes, sir.

21          Q.    Every police officer is, right?

22          A.    Yes, sir.

23          Q.    Okay.  And it directs police officers to read  
24 rights, right?

25          A.    Yes, sir.

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1                   MR. REYES: I'm going to object, Your  
2 Honor. It calls for a legal conclusion.

3                   THE COURT: Overruled.

4           Q.     (BY MR. BLAYLOCK) Does it say anywhere in  
5 that whole opinion about judges, they can -- only judges  
6 can read them their rights?

7           A.     No, sir.

8           Q.     In fact, that's not a requirement, is it?

9           A.     That is correct.

10                  MR. REYES: I'm going to object, Your  
11 Honor. That's a misstatement of the law.

12                  THE COURT: It's overruled.

13           Q.     (BY MR. BLAYLOCK) And this attorney trying to  
14 tell this jury that you have to take him before a judge  
15 is incorrect, isn't it?

16           A.     Yes, sir.

17                  MR. REYES: I'm going to object, Your  
18 Honor. That's a misstatement of the law. Article 15.17  
19 of the Code of Criminal Procedure directly states that  
20 they must be taken without -- with all -- unnecessary  
21 delay before a magistrate. So he's misstating the law.

22                  MR. BLAYLOCK: I'd like to read all of  
23 15.17 --

24                  THE COURT: Well, at what time are you  
25 referring your question to, counsel?

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1 MR. BLAYLOCK: I'm talking about --

2 Q. (BY MR. BLAYLOCK) We're still talking about  
3 the time the statements were taken, correct?

4 THE COURT: Okay. That's overruled then.

5 A. Yes, sir.

6 Q. (BY MR. BLAYLOCK) Okay. And 15.17 says  
7 you've got to take them before a magistrate eventually to  
8 have a bond set, right?

9 A. Correct.

10 Q. Okay. And does it say anywhere in there about  
11 reading them their rights before you can get a statement?

12 A. Does it say in there?

13 Q. It doesn't say in there, does it?

14 A. No, sir.

15 Q. Okay. Now, these statements that Ruben did  
16 give to you are self-serving, aren't they?

17 A. Yes, sir.

18 Q. In fact, he's saying that, "It wasn't me.  
19 Somebody else did it"?

20 A. That's correct.

21 Q. Okay. And does that -- does that conflict with  
22 other information that you have?

23 A. Yes, sir.

24 Q. Okay. In fact, if you were going to write a  
25 statement for Ruben and try to dupe him into signing it

1 because he's blind, would you -- wouldn't you just say,  
2 "I did it," and say -- and have him sign that?

3 A. Yes, sir.

4 Q. Okay. But you're not that type of an officer,  
5 are you?

6 A. No, sir.

7 Q. Tell the jury how you operate.

8 A. When we have a suspect that's brought in, we go  
9 ahead and read him his rights. He understands what his  
10 rights are; and we say that he can give a statement as to  
11 what his version is.

12 His version is taken; and then he reads  
13 his rights once again when he puts his initials at the  
14 top of the page. He initials each paragraph to ensure  
15 that nothing has been added on to it. And then he goes  
16 ahead and signs it and it's witnessed by two officers or  
17 two individuals.

18 Q. Okay. Do you try to limit in any way what his  
19 version is?

20 A. No, sir.

21 Q. Do you just record what they tell you?

22 A. Yes, sir.

23 Q. And is that what you did in this case?

24 A. Yes, sir.

25 Q. Now, let me ask you this. Is it -- how many

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1 officers were present at any given time while you were  
2 talking to Ruben Gutierrez?

3 A. Maybe two officers.

4 Q. Okay. In fact, the two that signed on to it?

5 A. Yes, sir.

6 Q. And did more come in --

7 A. No, sir.

8 Q. -- in and out of our cubicle?

9 A. No, sir.

10 Q. Are they in that area?

11 A. In the office next door where Pedro Gracia was  
12 being interviewed at the same time.

13 Q. And where is that? How far away is that?

14 A. It's -- a wall separates both bays.

15 Q. Let's talk about Pedro Gracia. When he was  
16 arrested, did you begin to ask him his version of the  
17 events?

18 A. He was -- yes, sir.

19 Q. Okay.

20 A. When he was arrested?

21 Q. Yes.

22 A. Yes, sir.

23 Q. And when he was arrested he had a lot of money  
24 on him?

25 A. That is correct.

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1 Q. And did you ask him where the money came from?

2 A. Yes, sir.

3 Q. What was he telling you?

4 MR. REYES: I'm going to object, Your  
5 Honor. It calls for hearsay.

6 THE COURT: Sustained.

7 MR. BLAYLOCK: Judge, I'd ask for some  
8 leeway to go into it. The defense attorney opened this  
9 door by trying to go into the voluntariness of another  
10 individual's statements.

11 THE COURT: It's overruled.

12 Q. (BY MR. BLAYLOCK) All right. So, the first  
13 time you talked to Rene Garcia, did you ask -- what did  
14 you ask him?

15 A. We wanted to know where exactly he had obtained  
16 the money from.

17 Q. Okay. And did he give an answer?

18 A. Yes.

19 Q. Okay. And was it -- what kind of answer was  
20 it?

21 A. He was saying --

22 MR. REYES: I'm going to object, Your  
23 Honor. It calls for hearsay.

24 THE COURT: Sustained.

25 Q. (BY MR. BLAYLOCK) Did he indicate it came

1 from some other source than the Harrison home?

2 A. Yes, sir.

3 MR. REYES: Objection, Your Honor. It  
4 calls for hearsay.

5 THE COURT: Overruled.

6 Q. (BY MR. BLAYLOCK) Yes?

7 A. Yes, sir.

8 Q. All right. And who terminated the interview  
9 when he started talking like that?

10 A. I did.

11 Q. All right. And you didn't take a written  
12 statement then, huh?

13 A. No, I didn't.

14 Q. So the next day when -- or when you talked to  
15 him again, who initiated that interview?

16 A. Detective Marks and I.

17 Q. Okay. Well, did Rene Garcia talk to  
18 Detective Clipper or Officer Clipper?

19 A. I believe that was afterwards, sir.

20 Q. Okay. And --

21 A. The following day he spoke to Detective Marks  
22 and I.

23 Q. Okay. Did you get a statement that day?

24 A. Yes, we did.

25 Q. Did it turn out to be a truthful statement?



1 A. No, sir.

2 Q. Okay. So then he talked to Detective Clipper?

3 A. Yes, sir.

4 Q. And do you know what he indicated to  
5 Detective Clipper?

6 MR. REYES: Objection, Your Honor. It  
7 calls for hearsay.

8 THE COURT: Sustained.

9 Q. (BY MR. BLAYLOCK) Were you put on notice he  
10 wanted to talk to you again?

11 A. Yes, sir.

12 Q. And this time did you -- well, did you talk to  
13 him again?

14 A. Yes, we did.

15 Q. Did you initiate that conversation?

16 A. No, sir.

17 Q. He wanted to talk to you?

18 A. He wanted to tell the truth, give a truthful  
19 statement.

20 Q. Okay. And after that statement, is that when  
21 you went and got the warrant for Ruben Gutierrez?

22 A. Yes, sir.

23 Q. Did you make him talk to you -- Rene Garcia  
24 talk to you in any way?

25 A. No, sir.

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1 MR. BLAYLOCK: I'll pass the witness,  
2 Judge.

3 MR. REYES: May I proceed, Your Honor?

4 THE COURT: You may.

5 RECROSS-EXAMINATION

6 BY MR. REYES:

7 Q. You stated that the procedure that you follow  
8 in taking statements is as a person is speaking, you're  
9 typing; is that correct?

10 A. That is correct.

11 Q. And is your typewriter located to the side of  
12 your desk?

13 A. It's in the center of my desk.

14 Q. You testified with respect to State's Exhibit  
15 Number 60, which is that photograph --

16 A. Which one?

17 Q. State's Exhibit Number 60.

18 MR. REYES: May I approach, Your Honor?

19 THE COURT: You may.

20 MR. REYES: May the witness leave the  
21 witness stand, Your Honor?

22 THE COURT: Yeah, he may step down.

23 Q. (BY MR. REYES) This is what was marked as  
24 State's Exhibit Number 60, Officer. Can you scoot over  
25 so the jury members can see?

1 A. I'm sorry.

2 Q. Is that correct?

3 A. That is correct.

4 Q. And you testified that that was the hole that  
5 was dug and you found some money in it; is that correct?

6 A. That's correct.

7 Q. What residence did you find that money in?

8 A. The Franco residence.

9 Q. And who are they related to?

10 A. To Rene Garcia.

11 Q. And how much money was found in that hole?

12 A. \$56,000.

13 Q. You talked about a chicken coop earlier; is  
14 that correct?

15 A. That's correct.

16 Q. Is that the same location that you're talking  
17 about?

18 A. Yes, sir.

19 Q. Go ahead and take a seat.

20 A. (Witness complies).

21 Q. Before you talked to Ruben Gutierrez, you had  
22 already talked to Rene Garcia and Pedro Gracia; is that  
23 correct?

24 A. That is correct.

25 Q. So they had told you -- they had given you some

1 information; is that correct?

2 A. That is correct.

3 MR. REYES: May I approach again, Your  
4 Honor?

5 THE COURT: You may.

6 Q. (BY MR. REYES) I'm going to show you what has  
7 been marked and admitted into evidence as State's Exhibit  
8 Number 45.

9 MR. BLAYLOCK: It's over here.

10 Q. (BY MR. REYES) This is the statement in which  
11 you testified earlier. You told us that Sandra Galvan  
12 had continued questioning Ruben Gutierrez; is that  
13 correct?

14 A. That is correct.

15 Q. And this is the statement that has different  
16 information from the statement that's dated the same  
17 time; is that correct?

18 A. That is correct.

19 Q. And the same date?

20 A. Yes, sir.

21 Q. Now, isn't it true that up here where it says,  
22 "I, Ruben Gutierrez, having been warned by  
23 Detective Antonio Flores," that has your name on it; is  
24 that true?

25 A. That's true.

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1           Q.    But the office -- but never on there does it  
2 state that Sandra Galvan ever read him his Miranda  
3 rights; is that correct?

4           A.    That is correct.

5           Q.    I want you to look at that last page on State's  
6 Exhibit Number 45, Officer. You had him initial every  
7 single paragraph; is that true?

8           A.    Yes.

9           Q.    But when you look at that last sentence, it  
10 says, "I have read this statement and I find it to be  
11 true and correct to the best of my knowledge." It  
12 doesn't have his initials on there; is that true?

13          A.    That is correct.

14          Q.    You talked about being familiar with the  
15 Miranda warnings; is that correct?

16          A.    Yes, sir.

17          Q.    And what you're telling the ladies and the  
18 gentlemen of this jury is that you don't know that you're  
19 required to take a person before a magistrate to have him  
20 what's called arraigned? You're telling us that you  
21 don't know that?

22          A.    That he has to be taken to be arraigned?

23          Q.    Before a magistrate to get arraigned.

24          A.    Yes, sir.

25          Q.    You're telling us that you're not -- that you

1 don't know that you're required to do that?

2 A. I do know about it.

3 Q. Okay. And what's the answer? Are you required  
4 to take somebody before a magistrate or not?

5 A. He's taken before a magistrate, you know, after  
6 he gets arrested, maybe the following day when the  
7 magistrate's there. Yes, sir.

8 Q. Okay. And the purpose of taking that person  
9 before a magistrate is that that Judge can read that  
10 person his Miranda rights; is that correct?

11 A. That is correct.

12 Q. So earlier when you testified that you're not  
13 required to do that, you were mistaken?

14 A. Not when it says on the waiver of rights that  
15 we were talking about at that time.

16 Q. But isn't it correct that the code, a police  
17 officer's required to take a person before a magistrate?

18 A. That is correct.

19 Q. And the purpose of taking that person before a  
20 magistrate is that that Judge can give that person their  
21 Miranda rights; is that correct?

22 A. It tells them what they're arrested for, yes,  
23 sir.

24 Q. Okay. And isn't it --

25 MR. BLAYLOCK: I object to this. This is

1 totally misleading. I again ask the Court to instruct  
2 the jury on the law and the sequencing that's required.

3 THE COURT: That one of the purposes,  
4 counsel. You can handle that on redirect.

5 Q. (BY MR. REYES) Now --

6 THE COURT: That's one of the purposes,  
7 counsel, not the purpose.

8 MR. REYES: May I proceed, Your Honor?

9 THE COURT: You may.

10 Q. (BY MR. REYES) You testified that you talked  
11 to Ruben Gutierrez on September the 9th of 1998; is that  
12 correct?

13 A. That is correct.

14 Q. And you never took him before a magistrate; is  
15 that correct?

16 A. That is correct.

17 Q. You testified that you talked to him on  
18 September the 13th of 1998; is that true?

19 A. That is correct.

20 Q. And you never at all on that day took him  
21 before a magistrate; is that correct?

22 A. That is correct.

23 Q. Did you take him to a magistrate any day  
24 between September the 9th and September the 13th of 1998?

25 A. I personally didn't.

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1 MR. REYES: I'll pass the witness, Your  
2 Honor.

3 REDIRECT EXAMINATION

4 BY MR. BLAYLOCK:

5 Q. To clear up this magistrate thing, you take --  
6 when do you in the normal course of business take a  
7 prisoner before a magistrate?

8 A. If the person is arrested during the day, the  
9 normal course of it happening is the following day in the  
10 morning when he's being arraigned by the Judge along with  
11 every other prisoner that was picked up by the police  
12 department.

13 Q. Okay. And what does the Judge do when you're  
14 there?

15 A. The Judge goes ahead and advises the prisoner  
16 what he's being charged with. He goes ahead and reads  
17 him his rights; and then he sets a bond on him or --

18 Q. Okay. Is that required before you talk to  
19 people about a crime?

20 A. No, sir.

21 Q. It's absolutely not, is it?

22 A. No, sir.

23 Q. And if it were required, would that come up the  
24 system -- could you be able to work as a police officer?

25 MR. REYES: I'm going to object, Your



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1 Honor. It calls for speculation, legal conclusion.

2 THE COURT: Overruled.

3 A. No.

4 Q. (BY MR. BLAYLOCK) Wouldn't that -- if you had  
5 to wait to talk to people, wouldn't that cause a problem?

6 A. Yes, sir.

7 Q. And you're familiar with Miranda. It doesn't  
8 envision only judges reading those rights, does it?

9 A. That is correct.

10 Q. It envisions police officers reading those  
11 rights before they talk to people?

12 A. That is correct.

13 Q. And is that exactly what you did?

14 A. Yes, sir.

15 Q. You complied with that law?

16 A. Yes, sir.

17 Q. All right. Now, let's go with State's  
18 Exhibit 45. He initialed every paragraph, right?

19 A. That is correct.

20 Q. Except that one at the very end where he  
21 says -- he didn't initial it?

22 A. That is correct.

23 Q. But what did he do?

24 A. He went ahead and signed it.

25 Q. So he didn't initial every paragraph. The last

1 one, he signed off after it. Is that a big distinction?

2 A. No, sir.

3 Q. And when he took you out -- after he gave these  
4 self-serving statements and took you out and showed you  
5 where everything is, what was your impression?

6 A. My impression was that he was stating that he  
7 got this information from a third person, but yet he was  
8 leading us exactly to the location where these items  
9 could be found.

10 Q. Did this indicate to you that he had some sort  
11 of specialized knowledge of right where it was?

12 A. Yes.

13 Q. Is that consistent with what he was saying?

14 A. Yes.

15 Q. Is that consistent with what he was saying,  
16 that he got --

17 A. Oh, no. No, it isn't. About him getting it  
18 from a third person, no, it isn't.

19 Q. All right. Now, as far as State's Exhibit 44  
20 and 45, I didn't have you read verbatim from both of  
21 them, but is this -- are both of these exactly the same  
22 statement except for that extra part that you read?

23 A. That is correct.

24 Q. Okay. And that extra part has got to do with  
25 Avel Cuellar, right?

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1 A. That is correct.

2 Q. Did you force him to give that information on  
3 Avel?

4 A. No, sir.

5 Q. Was he doing it voluntarily?

6 A. Yes, sir.

7 Q. He wanted to talk some more about Avel?

8 A. Yes, sir.

9 Q. Okay. What does robbery mean?

10 MR. REYES: Objection, Your Honor. It  
11 calls for a legal conclusion.

12 THE COURT: It's overruled.

13 Q. (BY MR. BLAYLOCK) You're a police officer,  
14 right?

15 A. Yes, sir.

16 Q. What is a robbery?

17 A. Robbery is when someone takes something from  
18 another person, either by force, by threat or by  
19 injury --

20 Q. Okay.

21 A. -- without the person's consent.

22 Q. Do you have to take it right off their person  
23 or can you get it out of a cash register, for example?

24 A. Yes, sir.

25 Q. So in the course of committing a theft, if you

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1 hurt somebody, is that a robbery?

2 A. Yes, sir.

3 Q. Okay. And was Ms. Harrison hurt?

4 A. Yes, she was.

5 Q. And was there a theft?

6 A. Yes, sir.

7 MR. BLAYLOCK: I'll pass the witness.

8 **RECROSS-EXAMINATION**

9 **BY MR. REYES:**

10 Q. So you're not familiar, Detective Flores, with  
11 the fact that a magistrate -- the purpose of taking a  
12 person before a magistrate, as is stated in  
13 Article 15.14, is so that way he can read him his rights.  
14 You're familiar with it?

15 A. Correct.

16 Q. And are you familiar with the fact that that  
17 article also requires that magistrate to allow that  
18 person that's before him sufficient time to consult with  
19 an attorney? Are you familiar with that?

20 A. Yes, sir.

21 Q. Okay. So you would agree with me that if --  
22 that it's important that a person be taken to a  
23 magistrate so that the letter of the law will be  
24 followed; is that correct?

25 A. Yes, sir.

1           Q.    And if the law allows that magistrate -- or  
2 requires a magistrate to let that person consult with an  
3 attorney, you would agree with me that that is  
4 important --

5           A.    That is correct.

6           Q.    -- right? With respect to State's Exhibit  
7 Number 44 and State's Exhibit Number 45, isn't it correct  
8 that those two statements have the same exact date?

9           A.    Yes, sir.

10          Q.    They were given on the same date?

11          A.    Yes, sir.

12          Q.    And isn't it correct that those statements also  
13 have the exact time on them?

14          A.    Yes, sir.

15                   MR. REYES: I'll pass the witness, Your  
16 Honor.

17                               **REDIRECT EXAMINATION**

18           **BY MR. BLAYLOCK:**

19          Q.    Back to this magistrate thing, you're familiar  
20 with Article 15, the whole article in the Code of  
21 Criminal Procedure?

22          A.    Not the whole article verbatim, no, I'm not.

23          Q.    Okay. It's got to do with magistrates and  
24 setting bonds. Did you violate the law in any way by  
25 following Miranda and taking a statement?

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1 MR. REYES: Objection.

2 A. No, sir.

3 MR. REYES: It calls for a legal  
4 conclusion.

5 THE COURT: Overruled.

6 A. No, I didn't, sir.

7 Q. (BY MR. BLAYLOCK) All right. And were you  
8 doing your job just like you always do?

9 A. Yes, sir.

10 Q. Okay. And as far as these statements, again,  
11 they were taken one right after the other?

12 A. That is correct.

13 Q. And they're exactly the same except he wanted  
14 to add on a little bit more about Avel in the second  
15 statement?

16 A. That is correct.

17 Q. Is that why they have the same date and time on  
18 them?

19 A. Yes, sir, the time being the time that his  
20 rights were read and which he signed on the waiver.

21 Q. Okay.

22 MR. BLAYLOCK: Nothing further.

23 MR. REYES: May I proceed, Your Honor?

24 THE COURT: Go ahead.

25

**RECROSS-EXAMINATION**

**BY MR. REYES:**

Q. Officer -- Detective Flores, if I were to go up to you right now and I were to hit you on your head several times, I would have violated the law; is that correct?

A. Yes, sir.

Q. I committed an assault upon you; is that correct?

A. Yes, sir.

Q. So when Detective David Garcia was hitting Avel Cuellar on the head, he was violating the law; is that correct?

A. Yes, sir.

MR. REYES: I'll pass the witness, Your Honor.

**REDIRECT EXAMINATION**

**BY MR. BLAYLOCK:**

Q. Okay. Let's go back to Avel. Now, you said Avel was intoxicated, right?

A. Yes, sir.

Q. And did he actually hit him or what -- what was going on? Tell them again.

A. He was --

MR. REYES: I would object, Your Honor.

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1 That question has already been asked and answered.

2 THE COURT: You brought it up again,  
3 counsel. Go ahead.

4 Q. (BY MR. BLAYLOCK) Go ahead.

5 A. He was tapping him on his head saying, "Think,  
6 think, think about what happened. Think about what you  
7 did."

8 Q. Okay. And --

9 MR. BLAYLOCK: I'll pass the witness.

10 MR. REYES: Nothing further, Your Honor.

11 THE COURT: All right. You may step down.

12 THE WITNESS: Thank you, sir.

13 THE COURT: You may call your next  
14 witness.

15 MR. BLAYLOCK: The State would call  
16 Detective Rey Pineda.

17 THE COURT: Raise your right hand, please.

18 (The witness was sworn in by the Court)

19 THE WITNESS: I do.

20 THE COURT: You may be seated.

21 You may proceed.

22 MR. BLAYLOCK: Thank you.

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**REY PINEDA,**

having been first duly sworn, testified as follows:

**DIRECT EXAMINATION**

**BY MR. BLAYLOCK:**

Q. Good afternoon, Detective Pineda. Would you state your full name for the jury?

A. Rey Pineda.

Q. And how are you employed?

A. I'm a police officer for the City of Brownsville assigned to the criminal investigations division.

Q. How long have you been a police officer?

A. Seventeen years.

Q. And how long have you been assigned to criminal investigations?

A. Since '91, about eight years.

Q. Okay. You've been a detective a long time?

A. Yes, sir, eight years.

Q. And what were you doing before you were a detective?

A. I was assigned to the uniformed services.

Q. Patrol?

A. Yes, sir.

Q. All right. Let's go right to September 1998. Were you a detective?

1 A. Yes, sir.

2 Q. Were you assigned to work on a murder that  
3 occurred on Morningside?

4 A. I was asked to assist, yes, sir.

5 Q. Okay. And who were you asked to assist?

6 A. Detective Tony Flores.

7 Q. Okay. And what did you do the first time you  
8 got involved with that case?

9 A. On that occasion, I was asked to assist in the  
10 interview of Mr. Ruben Gutierrez.

11 Q. All right. And that was on what date?

12 A. September -- the beginning of September, about  
13 the 9th, 10th.

14 Q. Would it help if you reviewed your statement?

15 A. Yes, sir.

16 MR. BLAYLOCK: May I approach, Judge?

17 THE COURT: You may.

18 Q. (BY MR. BLAYLOCK) Has it been a while since  
19 you reviewed your statement?

20 A. Yes, sir.

21 It was September the 9th, 1998.

22 Q. All right. Now, do you know anything about  
23 Ms. Harrison?

24 A. That she was an 85-year-old female living by  
25 herself in the trailer park.

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1 Q. Okay. Is that trailer park in Brownsville?

2 A. Yes, sir.

3 Q. Is that in Cameron County, Texas?

4 A. Yes, sir.

5 Q. All right. Now, tell me what went on in that  
6 interview on September 9th, the first thing you did in  
7 this case.

8 A. We had -- I guess the investigators had  
9 received information that --

10 MR. REYES: Objection, Your Honor. It  
11 calls for hearsay.

12 THE COURT: Overruled.

13 A. They had received information that  
14 Mr. Gutierrez had been seen in the area.

15 Q. (BY MR. BLAYLOCK) Okay. Is Mr. Gutierrez in  
16 this courtroom?

17 A. Yes, sir, he is.

18 Q. Will you point him out and describe his clothes  
19 for me?

20 A. He's the young man sitting there with the white  
21 shirt, red tie, little moustache.

22 MR. BLAYLOCK: Judge, may the record  
23 reflect he's identified the defendant?

24 THE COURT: It shall reflect.

25 Q. (BY MR. BLAYLOCK) Okay. Go ahead with what

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1 you saw.

2 A. Mr. Gutierrez was brought in that afternoon by  
3 Detective Flores.

4 Q. Okay. Did you ask him what he had been doing  
5 that weekend?

6 A. We had asked him in reference to that weekend,  
7 yes, sir.

8 Q. Okay. Did he give you an answer?

9 A. He had started giving us a statement as to --  
10 that he had been riding around with some friends.

11 Q. On Saturday?

12 A. Yes, sir.

13 Q. Okay. And did you say anything to him?

14 A. Yes, sir. We told him that we had information  
15 that he had been --

16 MR. REYES: Judge, I'm going to object.  
17 It's hearsay and it's also cumulative. It's repetitive.

18 THE COURT: Overruled.

19 A. That he had been seen in the area by witnesses.

20 Q. (BY MR. BLAYLOCK) Okay. Did you ask him if  
21 he had his days confused about what day he was riding  
22 around on?

23 A. He's the one that told us that it was the day  
24 before.

25 MR. REYES: Objection, Your Honor. It

1 calls for hearsay.

2 THE COURT: Overruled, counsel.

3 A. He's the one that said that the witnesses had  
4 their days confused.

5 Q. (BY MR. BLAYLOCK) Okay. And did he keep  
6 talking to you after that?

7 A. After he gave us a name or so of the people  
8 that he was with, he decided to terminate the interview.

9 Q. Okay. And you guys had read him his rights,  
10 right?

11 A. That is correct.

12 Q. And Miranda requires you to read somebody their  
13 rights?

14 A. That is correct.

15 Q. All right. And you're a police officer, right?

16 A. That's correct, sir.

17 Q. You're not a judge?

18 A. No, sir.

19 Q. Okay. So it's okay for police officers to read  
20 people their rights and then ask them questions?

21 A. Yes, sir.

22 Q. Is it done every day?

23 A. Well, when he's a suspect --

24 Q. I mean just in your normal course of your job,  
25 is that done every day?

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1 A. Just about, yes, sir.

2 Q. Okay. So you had read him his rights and he  
3 signed off on them, right?

4 A. That's correct sir.

5 Q. And then he terminated the interview?

6 A. Yes, sir.

7 Q. All right. So what did you do next?

8 A. We went looking for the individuals that he had  
9 mentioned.

10 Q. All right. And who were those individuals?

11 A. I remember -- I recall one was named -- they  
12 had called him El Chuco Maldonado --

13 Q. Okay.

14 A. -- Joey Maldonado.

15 Q. Joey Maldonado? Did you go out to Joey's  
16 house?

17 A. Yes, sir, we did.

18 Q. What did you discover?

19 A. We picked up Mr. Maldonado and he -- he gave a  
20 statement.

21 Q. And during your investigation with  
22 Mr. Maldonado, what did you discover? Was  
23 Mr. Maldonado's statement to you consistent or  
24 inconsistent with what Mr. Gutierrez had told you?

25 A. They were kind of different, yes, sir.

1 Q. In fact, they were different on different days,  
2 right?

3 MR. REYES: Objection, Your Honor.  
4 Counsel is leading his own witness.

5 THE COURT: Don't lead the witness,  
6 counsel.

7 A. He gave different versions when we brought him  
8 in on different occasions.

9 Q. (BY MR. BLAYLOCK) All right. And where did  
10 your investigation lead you next?

11 A. Our investigation led us to pick up these other  
12 individuals, which also statements were secured from.  
13 From there, we received a Crime Stopper's tip.

14 Q. Before we go to that, these other individuals,  
15 do you remember their names?

16 A. I believe one was Trevino.

17 Q. Okay. George Trevino?

18 A. Yes, sir.

19 Q. Okay.

20 A. There was another individual that I can't  
21 really recall his name.

22 Q. Let me refer --

23 A. Alex Angeles, now that I looked on my --

24 Q. Yeah. Let me refer you to the fifth paragraph  
25 on your statement. Do you see Alex Angeles in there?

1           A.    Yes, sir.

2           Q.    All right.  Now, these individuals gave  
3 statements, too?

4           A.    Yes, sir.

5           Q.    Did you discover whether or not they had been  
6 to Matamoros?

7           A.    We had no way of verifying that, only that they  
8 said that they had been.

9                       MR. REYES:  Objection, Your Honor.  
10 Hearsay.

11                      THE COURT:  I'll sustain on hearsay.

12           Q.    (BY MR. BLAYLOCK)  All right.  But -- go ahead  
13 and tell me about the Crime Stopper's call.

14           A.    We had received a Crime Stopper's call that --

15                      MR. REYES:  Objection, Your Honor.  It  
16 calls for hearsay.

17                      THE COURT:  It's overruled.

18           A.    That an individual by -- had been spending a  
19 large amount of money.

20           Q.    (BY MR. BLAYLOCK)  What was his name?

21           A.    Rene Garcia.

22           Q.    Okay.  And did that report tell you that it  
23 could be tied to the death of the old lady?  Or do you  
24 remember?

25           A.    The Crime Stopper's tip, I just recall that



1 this guy was spending large amounts of money. I don't  
2 know if they referred to it as actually coming from the  
3 Harrison incident.

4 Q. All right. And what did you do to follow up on  
5 that tip?

6 A. On that tip, we already -- for this certain  
7 individual, Mr. Rene Garcia, we had a warrant -- a  
8 warrant out for him already for theft by possession. We  
9 went out to the area where he lived in Southmost; and one  
10 of the patrol uniformed services officer located him in  
11 an alley, at which time he was taken into custody.

12 Q. All right. And was he interviewed?

13 A. Yes, sir.

14 Q. Did he give a statement on that day?

15 A. No. He may have given a statement later that  
16 night.

17 Q. You weren't there?

18 A. No, sir.

19 Q. All right. What -- what were you involved in  
20 on that?

21 A. When we picked him up, we picked up -- he had  
22 like two -- maybe about \$2,000 on his person.

23 Q. Okay. And what else?

24 A. After that we went back to his residence and we  
25 asked him for a consent to search his residence; and we

1 located another 8,000.

2 Q. Who gave consent to search his residence?

3 A. He did.

4 Q. And what other properties were at his  
5 residence?

6 A. We picked up items that he had recently  
7 purchased; clothing, TV, stereos.

8 Q. And any vehicles?

9 A. We picked up the vehicle that he was in.

10 Q. And did your investigation indicate where that  
11 had come from?

12 A. Our investigation led us that he had purchased  
13 that vehicle for close to \$6,000 cash.

14 Q. Recent?

15 A. Yes, sir.

16 Q. All right. And from your investigation with  
17 Mr. Garcia, did it lead to any other names?

18 A. Yes, sir.

19 Q. Who?

20 A. After he decided to talk about the incident, he  
21 gave the name of Pedro Gracia and Ruben Gutierrez.

22 Q. And did you go to Pedro Gracia's?

23 A. Yes, sir, we did.

24 Q. What happened there?

25 A. At that time he was brought in to the station.

1 He had also had just recently purchased new vehicles.

2 We --

3 Q. Did you seize those vehicles?

4 A. Yes, we did. After he was read his rights and  
5 everything, he also provided a statement to the  
6 investigators and turned over a large amount of cash.

7 Q. Okay. And did you go out to get that cash?

8 A. Yes, sir, I did.

9 Q. Where was it located?

10 A. It was on -- he was moving residence at the  
11 time. It was on Browne Road. I can't recall the exact  
12 address.

13 Q. Okay. And where was the money located inside  
14 the residence?

15 A. It was hidden inside a sofa.

16 Q. Okay.

17 MR. BLAYLOCK: May I approach, Judge?

18 THE COURT: You may.

19 Q. (BY MR. BLAYLOCK) I'm showing you what's been  
20 marked as Exhibits 40 and 41. Do these depict the scene  
21 as you saw it that day?

22 A. Yes, sir.

23 Q. Do you remember how much money you got from  
24 Pedro?

25 A. The cash alone was like 11,000, a little over

1 11,000.

2 MR. BLAYLOCK: I move to admit Exhibits 40  
3 and 41.

4 MR. REYES: We have no objection, Your  
5 Honor.

6 THE COURT: They'll be admitted into  
7 evidence.

8 (State's Exhibit Numbers 40 and 41  
9 admitted)

10 Q. (BY MR. BLAYLOCK) Okay. Tell the jury what  
11 40 and 41 depict.

12 A. Number 40 would be the -- this is the front  
13 door of the apartment that he's moving in; and this is  
14 the sofa. We got on this side of the sofa to take a  
15 picture of it.

16 Q. Okay. The front door is in the far background,  
17 right?

18 A. Yes, sir.

19 Q. And he was just moving into this place?

20 A. Yes, sir.

21 Q. Okay. That's where the sofa was inside his new  
22 apartment?

23 A. Yes, sir.

24 Q. Now, what does 41 show?

25 A. As he opened up the pillow case -- one of the

1 pillow sofas, and he opened up and there was the money  
2 that was hidden inside the sofa.

3 Q. A cushion?

4 A. A cushion.

5 Q. All right. And he gave you consent and showed  
6 you where it was?

7 A. That's correct.

8 Q. Did your investigation indicate where this  
9 money had come from?

10 A. That was believed to have come from the  
11 Harrison residence.

12 Q. From your investigation with Mr. Pedro Gracia,  
13 were any other names followed up on?

14 MR. REYES: Objection, Your Honor. It  
15 calls for hearsay.

16 THE COURT: Overruled.

17 A. He implicated Ruben Gutierrez and Rene Garcia.

18 Q. (BY MR. BLAYLOCK) All right. So you get the  
19 money from Pedro Gracia. What do you do after that?

20 A. Well, after we seize the vehicles, then we  
21 start looking for Mr. Gutierrez.

22 Q. Did you find him or did you get a warrant  
23 first?

24 A. There was a warrant obtained, issued for him.

25 Q. All right. The warrant was after you had

1 talked to Rene Garcia?

2 A. I think after we corroborated the evidence that  
3 we had and then we obtained the warrant.

4 Q. All right. Okay. So, did you find  
5 Mr. Gutierrez?

6 A. He was located, yes, sir.

7 Q. Where at?

8 A. I believe he was located at a washateria. I  
9 didn't locate him. Some of the other uniformed officers  
10 and Detective Flores located him.

11 Q. Okay. So you weren't there for the arrest?

12 A. No, sir.

13 Q. All right. Well, then, tell me what your next  
14 involvement is.

15 A. Next involvement, my part was I was waiting in  
16 my office; and they obtained information from  
17 Mr. Gutierrez on his statement.

18 Q. So you were a witness to a statement?

19 A. Yes, sir.

20 Q. Okay. And --

21 A. Well, no, sir. I take that back. I'm sorry.  
22 I had nothing to do with the statement. The information  
23 that they obtained I assisted in going after.

24 Q. Okay. So, do you know which detective talked  
25 to Mr. Gutierrez?

1           A.     Detective Flores.

2           Q.     Okay.  You weren't there?

3           A.     No, sir.

4           Q.     Well, how did Detective Flores come -- how did  
5 he get to you?

6           A.     He came out after he took the statement.

7           Q.     And was Sergeant Galvan, Sandra Galvan a  
8 witness to the statement?

9           A.     I believe so.

10          Q.     Okay.  And when they came out of taking that  
11 statement, what did they want you to do?

12          A.     They wanted me to go with them and as --  
13 because he was cooperating with the investigation.

14          Q.     Okay.  And tell the jury what happened.

15          A.     From that point, Mr. Gutierrez went with us and  
16 he showed us the route that they had taken after Mrs. --  
17 they left Mrs. Harrison's residence that afternoon.

18          Q.     Okay.  And describe for the jury in words what  
19 route they took.

20          A.     They left the Harrison Trailer Park.  They got  
21 into Pedro Gracia's truck.  They drove down Morningside.  
22 At one point they threw out a screwdriver, which he said  
23 was a screwdriver.  And then he took us to a wooded area  
24 on California Road where he pointed out where a suitcase  
25 was thrown and the money divided up.

1 Q. All right. Now, did you get out of the car  
2 when they stopped at the resaca where the wooded area  
3 was?

4 A. Yes, sir, I did.

5 Q. Okay. And did you go look for the suitcase?

6 A. Yes, sir, I did.

7 Q. Okay. Did you find it?

8 A. I didn't find it at first, no, sir.

9 Q. Well, tell me how it all took place.

10 A. Well, we pulled up to the area; and he pointed  
11 out the area. He said, "It's right here where we threw  
12 out the suitcase."

13 Q. Okay. Was he saying, "We did it," or did he  
14 say, "Somebody told me that they did it"?

15 A. He might have said -- he might have said  
16 something different than what I'm saying, but what I  
17 recall is that he said, "Here's where they threw it" or  
18 "We threw it." I'm not sure.

19 Q. All right. And did you get out of the car?

20 A. Yes, sir, I did.

21 Q. And did you go look for it?

22 A. Yes, sir, I did.

23 Q. Tell the jury what happened.

24 A. I went in looking through this wooded area.  
25 And in about five minutes they were calling me back,



1 Detective Flores and Mr. Gutierrez; and they tell me that  
2 I was searching in the wrong place.

3 Q. Okay. And where -- did they point out a new  
4 place to you?

5 A. Well, Mr. Gutierrez at that time was already  
6 out of the vehicle, and he was standing next to the fence  
7 pointing to the area where the suitcase -- where I  
8 located the suitcase.

9 Q. Okay. Could you have seen that suitcase from  
10 the road?

11 A. No, sir.

12 Q. And you couldn't see it when you got out of the  
13 car and approached the area?

14 A. No, sir.

15 Q. All right. But he pointed you right to it?

16 A. That's correct.

17 Q. And what did you do once you had the  
18 information?

19 A. Oh, after I saw the suitcase there, I was able  
20 to -- I got the camera kit, took photographs of the  
21 suitcase, the items that were around that suitcase, and  
22 collected it.

23 Q. All right. Well, describe for us what the  
24 suitcase looked like.

25 A. It was a blue old suitcase.

1 Q. And what were the items that were around it?

2 A. They were like -- there was some old bands of  
3 money, some folders.

4 Q. Old bands of money? What do you mean?

5 A. You know like the \$20 or something like that,  
6 little wrappings.

7 Q. Oh, okay. So there wasn't money; there was  
8 just wrappings of money?

9 A. Right.

10 Q. Okay. What else?

11 A. I found a little piece of paper with a name of  
12 "Ruben owes me --" with Ruben's name --

13 Q. Okay.

14 A. -- a Ruben's name.

15 Q. A Ruben?

16 A. Yeah. "Owes me \$50," something like that.

17 Q. Anything else?

18 A. No, sir, I can't recall.

19 Q. Okay. But you photographed it all?

20 A. Yes, sir.

21 Q. And did you all take possession of that blue  
22 suitcase?

23 A. That's correct.

24 Q. All right.

25 MR. BLAYLOCK: If I may approach?

1           Q.    (BY MR. BLAYLOCK) I just want to show you  
2 something. Does this look familiar?

3           A.    Yes, sir.

4           Q.    What is it?

5           A.    That's the suitcase that was located on  
6 California Road.

7           Q.    Does it have anybody's name on it?

8           A.    Well, that side says, "Roberto A. Harrison."

9           Q.    Okay. Did you take possession of the other  
10 things that were found?

11          A.    Yes, sir.

12          Q.    Were they wet or dry?

13          A.    They were wet.

14          Q.    What was the weather like at that time during  
15 September?

16          A.    I believe it had rained.

17          Q.    All right. In fact, let me refer you to your  
18 statement. The end of the fourth paragraph, what does  
19 that mean there?

20          A.    That we weren't able to do a lot because there  
21 was a storm watch that night.

22          Q.    Okay. So it had rained?

23          A.    Yes, sir.

24          Q.    And what's the date of that?

25          A.    9/10.

1 Q. September 10th?

2 A. '98.

3 Q. Okay. And what was the weather like through  
4 this whole period of early September, do you remember?

5 A. No, sir, I can't recall.

6 Q. Did you search that field where Mr. Gutierrez  
7 had told you that the weapon had been thrown?

8 A. Yes, sir.

9 Q. You spent some time out there?

10 A. Yes, sir.

11 Q. About how long?

12 A. We sure did. Like a day and a half.

13 Q. A long time?

14 A. Yes, sir.

15 Q. Okay. What all -- how many people had searched  
16 that area?

17 A. We brought in officers from another agency to  
18 assist us. And I'd say there was like 20, 20 guys out  
19 there searching for that screwdriver. We even brought in  
20 the dogs.

21 Q. Dogs? Were there metal detectors?

22 A. And metal detectors.

23 Q. Okay. This was some time after the murder,  
24 right?

25 A. That's correct.

1 Q. Do you know what date the murder took place?

2 A. No, sir.

3 Q. Do you know what date the body was found?

4 A. I would say it was -- I was off that weekend.

5 So I would say it was probably on the 8th. I'm not sure.

6 Q. Okay. If Sunday was the 6th, would that ring a  
7 bell with you?

8 A. Well, if you told me Sunday the 6th, I guess  
9 it's that day.

10 Q. Okay. But you got involved in this  
11 investigation on what day?

12 A. On the 9th.

13 Q. And what day was that?

14 A. If Sunday was the 6th, 7th, 8th. Wednesday,  
15 Tuesday.

16 Q. All right. Well, tell me what you did next  
17 after you found the blue suitcase.

18 A. After that, Mr. Gutierrez was taken back.  
19 After, it seized and I booked it in. We had to air dry  
20 it -- I mean, let it dry out in the room because it stunk  
21 so bad.

22 Q. All right. Tell me what happened next.

23 A. Let me see. After that, I believe we  
24 received -- we had information that this Juan Pablo  
25 Campos had some money from the homicide.

1 Q. And do you know how Juan Pablo Campos is  
2 related to Ruben Gutierrez?

3 A. I think his wife's cousin. They're cousins  
4 somehow, his wife and his wife or something like that.

5 Q. Did you seize a vehicle from Ruben Gutierrez?

6 A. Yes, sir.

7 Q. And who was the owner of the vehicle that you  
8 seized?

9 A. Juan Pablo Campos.

10 Q. Did you receive any information about how Ruben  
11 came to be in possession of that vehicle?

12 MR. REYES: Objection, Your Honor. It  
13 calls for hearsay.

14 THE COURT: Overruled.

15 Q. (BY MR. BLAYLOCK) You can answer.

16 A. He came -- he purchased that vehicle from Juan  
17 Pablo.

18 Q. Okay. What kind of a vehicle was it?

19 A. It was a Ford Bronco.

20 Q. Okay. And do you know how much he paid for it?

21 A. 6,000 cash.

22 Q. And when you followed up on the information  
23 with Juan Pablo Campos, did you discover if he had any  
24 money?

25 A. Yes. He later was brought in on a -- he was

1 found to have some outstanding traffic tickets that he  
2 hadn't paid. And he was brought in, and he was found to  
3 be in possession of like a thousand something dollars  
4 worth of money, money cash on him, which he then stated  
5 that he --

6 MR. REYES: Objection, Your Honor. It  
7 calls for hearsay.

8 THE COURT: Sustained.

9 Q. (BY MR. BLAYLOCK) Did you discover where that  
10 money had come from?

11 MR. REYES: It calls for hearsay, Your  
12 Honor.

13 THE COURT: Overruled.

14 Q. (BY MR. BLAYLOCK) Did you discover that --

15 A. From the Harrison's.

16 Q. Okay. And did -- was there any more money that  
17 you were led to?

18 A. Juan Pablo took us to an aunt's house by the  
19 name of Bennett on Acapulco Street --

20 Q. Okay.

21 A. -- where she turned over a substantial amount  
22 of money.

23 Q. Why did Juan Pablo take you to his aunt's  
24 house?

25 A. To hide it.

1 Q. Okay. He had hidden some money there?

2 A. Yes, sir.

3 Q. Okay. And how much money are we talking about?

4 A. That was close to \$50,000.

5 Q. Okay. And did Juan Pablo -- did your  
6 investigation show where Juan Pablo Campos had gotten  
7 that money?

8 A. Yes, sir.

9 Q. From who?

10 MR. REYES: Objection, Your Honor. It  
11 calls for hearsay.

12 THE COURT: Overruled.

13 A. From Mr. Gutierrez.

14 Q. (BY MR. BLAYLOCK) Now, what -- let's back up  
15 a little bit. Before you go to Juan Pablo Campos, did  
16 you receive any other evidence from anybody else?

17 A. Yes, sir, we did. Before the Juan Pablo  
18 Campos -- I'm sorry. We had received information from  
19 Mrs. Garcia, Rene's mother, that she wanted to turn over  
20 some money.

21 MR. REYES: I'm going to object, Your  
22 Honor. It calls for hearsay.

23 THE COURT: It's overruled.

24 Q. (BY MR. BLAYLOCK) Okay. So the mother of  
25 Rene Garcia indicated she would like to give you some



1 money?

2 A. Exactly.

3 Q. Okay. And did she -- did she indicate where  
4 that money had come from?

5 A. Yes, that she had received it from Rene.

6 Q. Rene Garcia?

7 A. Yes, sir.

8 Q. Okay. And where did you go to collect that  
9 money?

10 A. We went to a house on California Road where the  
11 brother-in-law lived, Franco.

12 Q. Okay. And Franco is a relative to Rene Garcia?

13 A. They're brother-in-laws, I think.

14 Q. Okay. And where was the money located on that  
15 property?

16 A. It was in the back in one of the livestock pens  
17 back in the back, like a chicken coop or something like  
18 that. He had buried it.

19 Q. Did you have to dig it up?

20 A. Yes.

21 Q. How much did that turn out to be?

22 A. It came out -- that was over \$50,000.

23 Q. And did Mr. Garcia confirm where that money had  
24 come from?

25 A. Yes. That was part of Harrison, from the

1 Harrison incident.

2 Q. All right. Now, do you know if any other  
3 evidence was brought in by Angie Gutierrez?

4 MR. REYES: Objection, Your Honor.  
5 Relevance. It calls for hearsay.

6 THE COURT: Overruled.

7 Q. (BY MR. BLAYLOCK) I'm asking if you know if  
8 Angie Gutierrez brought in any other evidence.

9 A. Angie Gutierrez?

10 Q. Yeah. If you know.

11 A. No, I don't.

12 Q. Did -- do you know who Erika Martinez is?

13 A. Yes.

14 Q. And who is she?

15 A. Rene Garcia's girlfriend.

16 Q. Okay. And do you know if Erika brought in any  
17 evidence?

18 A. Yes.

19 Q. Okay. What did she bring in?

20 A. She brought in another vehicle that had been  
21 purchased with money that was given to her by Rene, and  
22 also jewelry.

23 Q. What else?

24 A. I don't know if she brought in some cash, a  
25 little bit of cash.

1 Q. Did she -- did she bring anything else?

2 A. I don't recall.

3 MR. BLAYLOCK: May I approach the witness,  
4 Judge?

5 THE COURT: You may.

6 Q. (BY MS. FISCHER) Okay. Now, when you were  
7 riding around with -- is this the same Ruben Gutierrez  
8 you're riding around with?

9 A. Yes, sir.

10 Q. Okay. And you went on the route that was taken  
11 when they left the Harrison residence. Is that what you  
12 said?

13 A. Yes.

14 Q. Okay. Could you get off and get that pointer  
15 right there?

16 A. (Witness complies).

17 Q. I'll refer you to State's Exhibit Number 59.

18 MR. REYES: May I approach, Your Honor?

19 THE COURT: You may.

20 Q. (BY MR. BLAYLOCK) What happened, Detective?

21 A. I looked like Andy Griffith.

22 Q. All right. Step back so the jurors over there  
23 can see. And tell me, when you got involved in that  
24 riding around with Ruben -- and who else was in the car?

25 A. Detective Flores and Mr. Gutierrez.

1 Q. Tony Flores?

2 A. Yes, sir.

3 Q. All right. And show me the route that you all  
4 took.

5 A. We started out here. He showed us this way.  
6 And right here he said that they threw out the  
7 screwdriver.

8 Q. All right. I'll refer you to that photograph  
9 down there. Is that part of the field you searched?

10 A. Yes.

11 Q. The field is bigger than that, though, right?

12 A. Yes, sir.

13 Q. Okay. And you looked all over that field?

14 A. That's correct.

15 Q. And then did you stop there?

16 A. We stopped briefly; and he said, "It's around  
17 here," and tried -- you know, like, "Right here."

18 "Are you sure it's right here?" And back  
19 and forth.

20 And he said, "Yes, I'm sure it's right  
21 here, this piece of whatever."

22 Q. Okay. Did he indicate at all how it had gotten  
23 into the field?

24 A. He threw -- while they were driving by they  
25 threw it out, threw it out of the truck.

1 Q. Who threw it?

2 A. Well, he says Rene.

3 Q. All right. And did you park about where -- do  
4 you see that vehicle in that picture?

5 A. That's correct.

6 Q. Whose car is it?

7 A. It looks like Detective Flores.

8 Q. So you parked right there?

9 A. Yes, sir.

10 Q. Okay. And then how long did you stay there?

11 A. A few minutes, just, "Okay. Are you sure it's  
12 here? Are you sure it's here?"

13 He said, "Yes," kept on saying, "Yes. We  
14 flung it out," or "Rene flung it out. You're going to  
15 find his prints on it." Okay. And then we --

16 Q. All right. Where did you go next?

17 A. He took us down this road to this point right  
18 here where they -- where the suitcase was located at.

19 Q. All right. Would you look at this photo?

20 A. (Witness complies).

21 Q. Were you able to see it like that?

22 A. This is very, very, very hard. You have to  
23 look super close.

24 Q. Okay. So you weren't able to see it when you  
25 first got out?

1           A.     That's correct.

2           Q.     And you were able to see it like this only  
3 after he pointed it to you?

4           A.     Yes, sir.

5                   MR. REYES: I'm going to object to counsel  
6 leading his own witness, Your Honor.

7                   THE COURT: Don't lead your witness,  
8 counsel. Let's proceed.

9           Q.     (BY MR. BLAYLOCK) All right. From right  
10 there after you found all these things, how long did you  
11 spend at that spot?

12          A.     At that place, we stayed about a good 15, 20  
13 minutes, maybe longer, because I had to collect  
14 everything, take photographs.

15          Q.     All right. And then where did you go from  
16 there?

17          A.     From there, we went back to the station.

18          Q.     Okay. What day -- what day was that? Do you  
19 need to look at your notes?

20          A.     That was the day that he was -- I'd better --  
21 that was the same day that -- the same day.

22          Q.     That he had given his statement?

23          A.     Yes, sir.

24          Q.     And what's the date is what I'm asking.

25          A.     The 13th.

1 Q. 13th, September 13th?

2 A. Yes, sir.

3 Q. Okay. And what date did you go and dig up the  
4 money at the California Road, 6900 California Road?

5 A. 14th.

6 Q. The 14th, the next day?

7 A. Yes, sir.

8 Q. You can have your seat back.

9 A. (Witness complies).

10 THE COURT: All right. Let's go ahead and  
11 break for the day. Ladies and gentlemen of the jury,  
12 remember the instructions I've given you not to discuss  
13 this case among yourselves or with anyone else, not to  
14 form or express any opinions. Stay away from all news  
15 media coverage of the case, if any. With those  
16 instructions be back in the jury room tomorrow morning  
17 before 9:00 so we can start at 9:00 with the testimony.

18 (Proceedings recessed at 4:53 p.m.)

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1 THE STATE OF TEXAS:


2 COUNTY OF CAMERON:

3 CERTIFICATE OF COURT REPORTER

4  
5 I, PAM L. ESQUIVEL, Official Court Reporter in and  
6 for the 107th Judicial District Court of Cameron County,  
7 State of Texas, do hereby certify that the above and  
8 foregoing contains a true and correct transcription of  
9 all portions of evidence and other proceedings requested  
10 in writing by counsel for the parties to be included in  
11 this volume of the Reporter's Record, in the  
12 above-entitled and numbered cause, all of which occurred  
13 in open court or in chambers and were reported by me.

14 I further certify that this Reporter's Record of the  
15 proceedings truly and correctly reflects the exhibits, if  
16 any, admitted by the respective parties.

17 WITNESS MY OFFICIAL HAND on this the 6th day of  
18 December, 1999.

19   
20 PAM L. ESQUIVEL, Texas CSR, RPR  
21 Official Court Reporter  
22 107th District Court  
23 974 East Harrison Street  
24 Brownsville, Texas 78520  
25 (956) 544-0874  
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